

GAHC030001812026



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./6/2026

Smt. Malsawmdawngkimi and 9 Ors.
D/o F. Lalthangluaia
R/o Upper Republic, Aizawl 2: Smt. Varhlunthangi

3: Smt. Lindy Malsawmzuali

4: Smt. C. Lalrinthari

5: Smt. Lalremruati

6: Smt. Lalfakawmi Hnamte

7: Smt. Lalruatzovi

8: Smt. Rochanmawii Chinzah

9: Smt. Lalneihmawii

10: Sh. Lalnuntluang

VERSUS

The State of Mizoram
R/b the Secretary to the Government of Mizoram
Home Department, Aizawl

Advocate for the Petitioner : Mr. P C Lalthangmawia

Advocate for the Respondent : P.P./Addl.PP, Mizoram

**BEFORE
HONORABLE MRS. JUSTICE YARENJUNGLA LONGKUMER**

JUDGEMENT

Date : 07-05-2026

Heard learned counsel for the petitioner Mr. P.C. Lalthangmawia and learned P.P.Mrs. Vanneih sawmi for the State respondents.

2. The present petition has been filed under section 528 of the BNSS seeking quashing of FIR No.16/2023 dated 14.09.2023 registered at the C&EO PS by the CID(Crime) Mizoram for offences under section 24(1)(b) of the Emigration Act, 1983.

3. Learned counsel for the petitioner submits that :-

(i) the allegations do not disclose commission of any offence.

(ii) The persecution is malicious and vexatious.

(iii) Continuation of the criminal proceeding would amount to abuse of the process of the Court

(iv) The chargesheet has not been filed even after an inordinate delay of 2 years 6 months in a summon case and

(v) No useful purpose would be served by continuation of the proceeding.

4. The facts leading to the filing of this case is that the petitioners are the owners of placement agencies, having their own offices in different localities in

Aizawl. The petitioners are all having valid license issued by the District Magistrate Aizawl to carry on the business of private placement agencies. The petitioners have pleaded that they are not carrying on business outside of India.

5. An enquiry was conducted by the CID (Crime) Mizoram based on a complaint received from the Chairperson of the Mizoram State Commission for Women with regard to housemaids sent to the UAE and Singapore from Mizoram. The enquiry established that all the placement agencies in Mizoram sending domestic worker abroad do not possess valid certificates under the Emigration Act and therefore, the agencies are not competent as per the Emigration Act, 1983 to recruit any citizen of India for employment outside the country; violation of which is punishable under section 24 of the Act.

6. Learned counsel for the petitioner submits that the offence charged against the petitioners is a summon case which is non cognizable and bailable. Therefore, in a summon case, according to section 187(9) of the BNSS, the investigation has to be completed within a period of six months from the date on which the accused was arrested and the Magistrate shall pass an order stopping the investigation unless the investigating Officer satisfies the Magistrate that for special reasons and in the interest of justice the continuation of investigation beyond the period of 6 months is necessary. It is the specific submission of the learned counsel that no charge-sheet has been submitted till date.

7. Learned counsel for the petitioners submits that irreparable loss, personal and professional loss, and loss of reputation and credibility has been caused to them by the delay in the investigating process. And by such inordinate delay, there has been violation of Article 21 of the Constitution of India. It is the submission of the learned counsel that speedy trial is a component of personal

liberty.

8. Learned counsel for the petitioners has relied on the following cases in support of his submission:

1. ***State of Tripura vs Shri Sri Niranjit Singha & Anr passed in Crl.Revn 4/1985***
2. ***Gopal Prasad Kalowar vs State of Assam in 2001 CRI LJ 2678***
3. ***Vakil Prasad Singh vs State of Bihar in 2009 3SCC 355***
4. ***Robert Lalchungnunga Chongthu vs State of Bihar reported in 2025 INSC 1339***

9. In view of the above submission and authorities relied upon learned counsel for the petitioner prays that impugned FIR No.16/2023 dated 14/9/2023 may be quashed and set aside.

10. Per contra, the learned P.P. Mrs. Vanneih Sawmi, submits that the FIR and materials collected during the investigation disclose a prima facie cognizable offence and therefore the petitioner has not made out a case to invoke the inherent jurisdiction of this Court under section 528 of the BNSS.

11. The learned PP has produced the CD and also the charge-sheet. It is submitted that the charge-sheet was filed on 4/5/2026 and that the delay in filing the charge-sheet was caused due to the fact that the Emigration Act 1983 mandates prior sanction which was received from the Ministry of External Affairs, GOI very late. However, during the investigation it has been established that none of the petitioners possess the necessary certificate from the competent authority i.e. The Protector General of Emigrants. They have

admitted before the Investigating Officer that they have sent workers to foreign countries without obtaining the license/certificate. Learned P.P. submits that the license produced by the petitioners has been issued by the District Magistrate of Aizawl which is valid only for Indian territory.

12. Learned P.P. further submits that no prejudice has been caused to the petitioners by the delay in submission of charge-sheet and they have not been able to show in what manner they have been prejudiced. Further the petitioners/accused have never approached the trial Court under section 187(9) BNSS/section 167(5) Cr.PC and they are raising the issue of delay only in this petition for the first time. Learned P.P. by placing reliance in the case of ***Neeharika Infrastructure Private Limited vs State of Maharashtra & Others, (2021) 19 SCC 401*** has submitted that the High Court has no inherent power to interfere with the investigation, unless it is found that the allegations do not disclose the commission of a cognizable offence or the power of investigation is being exercised by the police malafide. The Supreme Court further held that the power of quashing criminal proceeding should be exercised very sparingly with circumspection and that too in the rarest of rare cases, and the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint. It is too well settled that the first information report is only an initiation to move the machinery and to investigate into a cognizable offence and therefore while exercising the power and deciding whether the investigation itself should be quashed, utmost care should be taken by the Court and at that stage it is not possible for the Court to sift the materials or to weigh the materials and then come to the conclusion one way or the other. It was further held in the aforementioned case that social stability and order is required to be

regulated by proceeding against the offender as it is an offence against the society as a whole. Learned P.P. therefore submits that the offences with which the petitioners are charged with has huge economic and social ramifications which cannot be treated lightly by this Court and the FIR may not be quashed merely because some delay has been caused in the submission of charge-sheet while awaiting the prosecution sanction.

13. The Court has given due consideration to the submission of the learned counsel for the parties and also perused the authorities relied upon as well as the Case Diary produced by the learned P.P.

14. A procedural delay in investigation does not automatically vitiate the FIR and does not bestow a right upon the accused for quashing of the FIR. When a right to a speedy investigation is protected, the law also ensures that a prosecution based on substantial evidence is not defeated by a subsequent procedural lapse. In the case of State of West Bengal vs Falguni Dutta reported in (1993) 3SCC 288, the Hon'ble Supreme Court was of the view that the Courts have to bear in mind that procedural laws must be liberally construed to serve as hand maid of justice and not as its mistress.

15. This Court is therefore of the view that in the present case the allegations against the petitioners disclose prima facie offence, and the investigation was allowed to continue or impliedly permitted to continue as the accused/petitioner never sought stoppage of investigation under section 187(9) of the BNSS, hence; they cannot turn around at this stage and pray for quashing of the FIR. It is also seen from the record that the accused/petitioner had been granted bail at the initial stage of investigation and therefore, no prejudice was caused to them due to the delay in submission of charge-sheet. A perusal of the Case Diary reveals that there is a prima facie case against the petitioners for illegal

recruitment and sending domestic workers overseas without valid certificate issued by the competent authority under the Emigration Act. It is pertinent that the section 10 of the Emigration Act mandates that no person can function as a recruiting agent without a valid certificate.

16. The law regarding quashing of FIR in a petition under section 482 Cr.PC/528 BNSS is well settled. The Supreme Court in the case of Neeharika Infrastructure (supra) has already held that the power under section 482 Cr.PC is very wide, but conferment of wide power requires the Court to be cautious. It casts an onerous and more diligent duty on the Court. The Supreme Court in the aforementioned case held:-

“13. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of [Khawaja Nazir Ahmad](#), the following principles of law emerge:

13.1. Police has the statutory right and duty under the relevant provisions of the [Code of Criminal Procedure](#) contained in Chapter XIV of the Code to investigate into cognizable offences.

13.2. Courts would not thwart any investigation into the cognizable offences;

13.3. However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on.

13.4. The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under [Section 482](#) Cr.P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court.)

13.5. While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint.

13.6. Criminal proceedings ought not to be scuttled at the initial stage.

13.7. Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule.”

17. Having regard to the settled principles of law regarding quashing of FIR in a petition under section 482 Cr.PC, 528 BNSS, and the facts and circumstances

set out in the present case, this Court is of the view that the petitioners have not been able to make out a case for interference of this Court. The instant petition is accordingly dismissed.

18. Registry is directed to return the Case Diary to the learned P.P.

JUDGE

Comparing Assistant