



2026:GAU-AS:11089

IN THE GAUHATI HIGH COURT
HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

Crl.Pet.1470/2025

- 1.** Assam Cricket Association
A Society Registered Under Societies
Registration Act 1860
Having Its Head Office at ACA Stadium,
Barsapara, Guwahati 781018,
District Kamrup M, Assam
Represented by its Secretary Sri Sanatan
Das

- 2.** Sri Pritam Mahanta
S/O Sri Ramesh Chandra Mahanta
Permanent Resident of Chepti P.S. Rangia
In the District of Kamrup Assam
Pin.781101 Ph. No. 910154245

.....Petitioners

Versus

- 1.** The State of Assam
Represented by the PP, Assam

- 2.** Pradip Buragohain
S/O Late Arabindra Buragohain
R/O Milan Nagar Ward No. 1 P.S. Nahorkotia
District Dibrugarh Assam Pin.786610.

- 3.** Manindra Nath Saikia
S/O Late Jatindra Nath Saikia

R/O Paltan Bazar Jalan Nagar Behind Punjab
National Bank P.S. Dibrugarh
District Dibrugarh Assam Pin.786005

.....Respondents

For Petitioners : Mr. D. Das, Senior Advocate
Mr. S. P. Choudhury, Advocate
Ms. R. Baruah, Advocate

For Respondents : Mr. K. Gogoi, Public Prosecutor
Mr. A. K. Bhuyan, Senior Advocate
Ms. N. Choudhury, Advocate (R.2)
Mr. T. Deuri, Advocate (R.3)

Date of Hearing : **26.05.2026**
Date of Judgment : **10.08.2026**

**BEFORE
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA
JUDGMENT AND ORDER**

1. Heard Mr. D. Das, the learned senior counsel assisted by Mr. S. P. Choudhury, as well as Ms. R. Baruah, the learned counsel for the petitioners. Also heard Mr. K. Gogoi, the learned Public Prosecutor appearing for the State respondent. Also heard Mr. A. K. Bhuyan, the learned senior counsel assisted by Ms. N. Choudhury, the learned counsel for the respondent No. 2 as well as Mr. T. Deuri, the learned counsel for the respondent No. 3.
2. This application under Section 528 of the BNSS, 2023 has been filed by the petitioners praying for quashing and setting aside the order dated 21.03.2025 passed by the learned Sub Divisional Judicial Magistrate

(S), No. 1, Kamrup (Metro), Guwahati in PRC Case No. 1881/2022 as well as the Police Reports dated 14.11.2024 issued by the Officer-in-Charge of Fatashil Ambari Police Station in connection with the aforementioned PRC case.

- 3.** The facts relevant for consideration of this Criminal Petition, in brief, are that the petitioner No. 1, i.e., Assam Cricket Association, is a Society registered under Societies Registration Act, 1860, having its Head Office at ACS Stadium, Barsapara Guwahati. The petitioner No. 2 is the Chief Executive Officer of the petitioner No. 1 Society.
- 4.** In pursuant to a resolution adopted in the general body meeting of the petitioner No. 1 Association on 28.08.2021, an FIR was lodged before the Officer-in-Charge of Fatashil Ambari Police Station on 06.12.2021, *inter-alia*, alleging that during the period from 12.06.2016 to 12.01.2019, when the respondent No. 2 herein was holding the post of honorary Secretary of the petitioner No. 1 Association, large scale financial anomalies had taken place in execution of various works and utilizing the funds of the petitioner No. 1 Association for various purposes.
- 5.** On the basis of the said FIR, Fatashil Ambari Police Station Case No. 817/2021 under Sections 120B/420/409/468/469/471 of the Indian Penal Code, 1860 was registered. After registration of the aforesaid case and ultimately upon completion of the investigation, charge sheet was laid against both the respondents herein on 30.03.2022 under Sections 120B/420/409/468/469/471 of the Indian Penal Code.
- 6.** It is pertinent to mention herein that in the charge sheet there was an endorsement made by the Investigating Officer that there may be

involvement of other accused persons in the offence alleged in this case and, therefore, the investigation of the case will continue with a view to collect more evidence and to book other accused persons involved. It was further stated in the charge sheet that the supplementary charge sheet will be submitted before the Court whenever required.

- 7.** After the submission of the aforesaid charge-sheet, the PRC Case No. 1881/2022 was registered and the said case was made over by the learned Chief Judicial Magistrate, Kamrup (Metro), Guwahati to the Court of the learned Sub Divisional Judicial Magistrate (S), No. 1, Kamrup (Metro), Guwahati for disposal. Thereafter, on 21.06.2022, the learned Chief Judicial Magistrate, Kamrup (Metro), Guwahati took cognizance of offence under Sections 120B/420/409/468/469/471 of the Indian Penal Code against both the present respondents and the next date was fixed for appearance of the accused persons before the Court.
- 8.** Thereafter, on the next date, i.e., 29.08.2022, the learned Assistant Public Prosecutor made a submission before the Court that as further investigation is going on, a report may be called from the Investigating Officer as regards the status of the further investigation and also to inform the court as to whether any supplementary charge sheet has been filed or not.
- 9.** However, on 14.12.2024, the Officer-in-Charge of Fatashil Ambari Police Station filed two separate status reports regarding submission of supplementary charge sheets in Fatashil Ambari Police Station Case No. 817/2021. As both the reports were contrary to each other the

learned Sub Divisional Judicial Magistrate (S), No. 1, Kamrup (Metro), Guwahati, directed the Officer-in-Charge of Fatashil Ambari Police Station to personally appear before the Court on 20.12.2024 and clarify the ambiguity regarding submission of supplementary charge sheet. However, on 20.12.2024, though, the Presiding Officer of the Court was on leave, the order sheet shows that on that day the Officer-in-Charge of Fatashil Ambari Police Station appeared in the Court and submitted the report. Thereafter, on 21.03.2025, the learned Sub Divisional Judicial Magistrate (S), No. 1, Kamrup (Metro), Guwahati, came to the conclusion that as no supplementary charge sheet will be submitted, it will be proper to proceed further with the case and fix the case on 28.11.2025 for consideration of charges. The aforesaid order dated 28.11.2025 and the contradictory reports submitted by the Officer-in-Charge of Fatashil Ambari Police Station on 14.11.2024 are impugned in this Criminal Petition.

- 10.** Mr. D. Das, the learned senior counsel for the petitioners has submitted that in one of the reports submitted by the Officer-in-Charge of Fatashil Ambari Police Station in Fatashil Ambari P. S. Case No. 817/2021 on 14.11.2024, it was stated by him that the investigation is still continuing and some reports are pending from the Airlines for verification and, therefore, further time was requested from the Court for completing the investigation. However, on the same day, a second report was submitted by the Officer-in-Charge of Fatashil Ambari Police Station taking a contradictory stand indicating that the investigation of Fatashil Ambari P. S. Case No. 817/2021 has been completed and no supplementary charge sheet will be filed. He submits that taking two contrary stands on same day by the police and filing two separate and

contrary reports in connection with the status of investigation in itself reveals foul play on the part of the Investigating authorities and, as such, same ought not to have been accepted by the learned Sub Divisional Judicial Magistrate (S), No. 1, Kamrup (Metro), Guwahati, by its order dated 21.03.2025 and the PRC case ought not to have been proceeded with.

- 11.** He submits that since the allegations in the FIR pertains to serious financial anomalies in utilization of funds of the petitioner No. 1 Association and since in the charge sheet submitted by the Investigating Officer there was a clear indication that apart from present respondents some other persons might also be involved in the aforementioned financial anomalies, the Trial Court ought not to have accepted the second status report submitted by the Officer-in-Charge of Fatashil Ambari Police Station on 14.11.2024. Rather in the interest of justice, it ought to have directed further investigation. He submits that finding the truth and doing substantial justice in a criminal case are more important than avoiding further delay being caused in concluding a criminal proceeding.
- 12.** He submits that merely because the cognizance of offence against the present respondents has already been taken by the Court, the further investigation is not ruled out altogether. He submits that there is a clear indication in the charge sheet regarding possibility of involvement of other persons in the offence alleged in this case, as such, proper further investigation is as much relevant, desirable and as expeditious disposal of case against the present respondent Nos. 2 and 3.

- 13.** The learned senior counsel for the petitioners further submits that as per Section 173 (2) (ii) of the Code of Criminal Procedure, 1973 the Officer-in-charge of the Police Station shall have to communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any, by whom the information relating to commission of offence was first given. He further submits that as per Section 173 (8) of the Code of Criminal Procedure, 1973, the provisions of sub-Section (2) to (6) shall, as far as may be, apply in relation to report submitted by the Officer-in-Charge of Police Station under Section 173 (8) of the said Code. Hence, he submits that as soon as the further investigation is completed, the petitioners, who are the first informant of this case are entitled to know regarding the action taken by the Investigating Officer during further investigation. However, he submits that in the instant case without intimating anything to the petitioners, the learned Sub Divisional Judicial Magistrate (S), Kamrup (M) by the impugned order dated 21.03.2025 accepted the report submitted by the Officer-in-Charge of the Fatashil Ambari Police Station on 20.12.2024.
- 14.** He, therefore, submits that the impugned order dated 21.03.2025 passed by the Court of the learned Sub Divisional Judicial Magistrate (S), No. 1, Kamrup (Metro), Guwahati in PRC Case No. 1881/2022 is required to be set aside and proper further investigation may be directed to reveal the truth regarding involvement of some other accused persons apart from respondent Nos. 1 and 2 in the offence involved in the aforementioned case. In support of his submissions, the learned senior counsel for the petitioners has cited following rulings:

- i. ***Vinay Tyagi Vs Irshad Ali @ Deepak & Ors*** reported in ***(2013) 5 SCC 762***
- ii. ***Anant Thanur Karmuse Vs The State of Maharashtra and Ors*** reported in ***(2013) 5 SCC 802***
- iii. ***Vinubhai Haribhai Malviya Vs. State of Gujarat*** reported in ***(2019) 17 SCC 1***
- iv. ***Hasanbhai Valibhai Qureshi Vs. State of Gujarat and Ors*** reported in ***(2004) 5 SCC 347***

15. On the other hand, Mr. A. K. Bhuyan, the learned senior counsel for the respondent No. 2 has submitted that as the petitioners have alleged that the Officer-in-Charge of Fatashil Ambari Police Station have filed two contrary reports, on 14.11.2022, as regards the fate of the further investigation, which was continuing in the Fatashil Ambari P. S. Case No. 817/2021 after submitting of charge-sheet against the present respondent Nos. 2 and 3, hence, the said Officer-in-Charge was a necessary party in this criminal petition. However, he submits that the petitioners have not impleaded him in this criminal petition and on this ground alone, the criminal petition is liable to be dismissed.

16. He submits that though, admittedly two contradictory reports were submitted by the Officer-in-Charge of Fatashil Ambari Police Station on 14.11.2021, however, from order dated 20.12.2024, it is apparent that in pursuant to the direction of the Court, the Officer-in-Charge appeared before the Court and submitted a report on that day. Later on, considering the said fact, the learned Sub Divisional Judicial Magistrate (S) No.1, Kamrup (Metro) by his order dated 21.03.2025

decided to proceed further with the case. He submits that though, in the scanned copy of the Trial Court, which was requisitioned in the case, the report dated 20.12.2024 could not be found, however, as the order dated 21.03.2025 clearly indicates that the learned Magistrate had gone through the said report before deciding to proceed with the case, there is no infirmity in such a decision taken by the impugned order dated 21.03.2025. Hence, he submits that any interference with the same, by this Court may not be justified.

- 17.** The learned senior counsel for the respondent No. 2 has further submitted that both the respondents, against whom charge-sheet has been filed in the year 2022 and the Court has also taken cognizance of offence under Sections 120B/420/409/468/469/471 of the Indian Penal Code on 21.06.2022, are waiting for commencement of trial, however, the trial has not yet progressed due to filing of the present criminal petition by the petitioners. He submits that the respondents are entitled to speedy trial, which is denied to them. He further submits that the present petitioners are not entitled to get any copy of report, regarding the fate of further investigation, in PRC Case No. 1881/2022 as in the said case charge-sheet has already been filed. He submits that had there been any submission of final report in the Fatashil Ambari P. S. Case No. 817/2021, they would have been entitled to get the notice before acceptance of such final report, however, as in the said case, charge-sheet has been filed, question of notifying them before proceeding further with the case does not arise.
- 18.** He submits that in the instant case, no permission of the Court was taken for continuing with the further investigation, under Section 173 (8) of the Code of Criminal Procedure, 1973 after submission of the

charge-sheet. He submits that mere mention in the charge-sheet that *"there might be involvement of some other accused persons, who also grabbed the ACA money with the assistance and under the headship of the accused persons, therefore, the investigation of the case will continue with a view to collect more evidence and to book the other accused person"* is not sufficient to conduct further investigation without seeking prior leave of the Court in this regard. He submits that requirement of seeking prior leave of the Court to conduct further investigation and/or who file a supplementary report will have to be read into, and is a necessary implication of the provisions contained in Section 173(8) of the Code of Criminal Procedure, 1973. He submits that in the instant case, no such prior leave was taken by the Investigating Officer of Fatashil Ambari P. S. Case No. 817/2021 for continuing with the investigation. He, therefore, submits that there is no infirmity in the impugned order and this Criminal Petition is liable to be dismissed. In support of his submissions, the learned senior counsel for the respondent No.2 has cited following rulings:

i. ***Promod Kumar and Other Vs. State of U.P. and Others*** [SLP (Criminal) No. 350/2024]

ii. ***Vinay Tyagi Vs. Irshad Ali*** reported in ***(2013) 5 SCC 762***

19. Mr. T. Deuri, the learned counsel for the respondent No. 3 has submitted that he adopts the submissions made by the learned senior counsel for the respondent No. 2. He further submits that in the aforementioned PRC Case No. 1881/2022, the Trial Court has already taken cognizance of offence under Sections 120B/420/409/

468/469/471 of the Indian Penal Code on 21.06.2022 against the present respondent Nos. 1 and 2. He submits that once cognizance is taken and the accused persons appears pursuant thereto the Magistrate would be bereft of any competence to direct further investigation, either *suo motu* or acting on the request or prayer of the complainant/informant. He submits that since in the instant case cognizance of offences involved in the case has already been taken by the Court of learned Sub Divisional Judicial Magistrate (S) No.1, Kamrup (M), Guwahati, the question of directing further investigation does not arise. In support of his submissions, the learned counsel for the respondent No. 3 has cited a ruling of Apex Court in the case ***Amrutbhai Shambhubhai Patel Vs. Sumanbhai Kantibhai Patel & Ors*** reported in ***AIR 2017 SC 774***. He further submits that the Trial Court has rightly passed the impugned order for proceeding with the trial after considering the report submitted by the Officer-in-Charge of Fatashil Ambari Police Station on 20.12.2024, as such, same needs no interference by this Court. He, therefore, prays for dismissing the instant criminal petition.

- 20.** On the other hand, Mr. K. Gogoi, the learned Public Prosecutor has submitted that it is apparent from records that on 14.11.2024, the Officer-in-Charge of Fatashil Ambari Police Station filed two contrary reports regarding the fate of further investigation. He, however, submits that on 21.03.2025, the Trial Court decided to proceed with the case on the basis of report furnished by the Officer-in-Charge of Fatashil Ambari Police Station on 20.12.2024, however, the said report is not available in the scanned copy of the trial court records. He submits that for proper adjudication of the matter before the trial

court, the report furnished by the Officer-in-Charge of Fatashil Ambari Police Station on 20.12.2024 would be very much necessary.

- 21.** I have considered the submissions made by the learned counsel for both sides and have gone through the materials available on record including the scanned copy of the trial court records. I have also gone through the ruling cited by the learned counsel for both sides in support of their respective submissions.
- 22.** On perusal of the First Information Report dated 06.12.2021, on the basis of which the Fatashil Ambari P. S. Case No. 817/2021 was registered. It appears that in the said FIR, the present petitioner No. 2 made several allegations of financial anomalies in execution of various works and utilization of funds of the Assam Cricket Association for various purposes. In the said FIR, the present respondent Nos.2 and 3 have been specifically named.
- 23.** It also appears that in the charge-sheet bearing No. 25(A) dated 30.03.2022, which was submitted in connection with Fatashil Ambari P. S. Case No. 817/2021, *prima facie* materials under Sections 120(B)/420/409/468/469/471 of the Indian Penal Code was found against the present respondent Nos. 2 and 3. It was further mentioned in the charge-sheet as follows:

"Further, there might have involvement of other accused persons who also grabbed ACA money with the assistance and under the headship of arrested accused persons namely Sri pradip Buragohain and Sri Manindra Nath Saikia. Therefore, the investigation of the case will be continued with a view to collect more evidence and to book other involved accused persons."

Supplementary charge sheet will be submitted before the hon'ble court whenever required."

- 24.** On a bare perusal of the aforesaid endorsement made in the charge sheet by the Investigating Officer, it appears that even after filing of the charge sheet, the Investigating Officer continued the investigation and himself took decision that whenever required charge sheet will be submitted before the Court. This approach of the Investigating Officer is clearly contrary to the statutory scheme provided under the erstwhile Code of Criminal Procedure, 1973.
- 25.** On a bare perusal of the statutory provisions contained in Section 173(2) of the Code of Criminal Procedure, 1973, it appears that the charge sheet shall have to be forwarded to a Magistrate empowered to take cognizance, only after completion of the investigation. If the Investigating Officer is of the view that the investigation is not complete and some aspects of the case is yet to be investigated, it would be wrong on his part to forward the charge sheet to the concerned Magistrate. Though, it is also not in dispute that the police do have the power to conduct further investigation under Section 173 (8) of the Code of Criminal Procedure, 1973, however, such power may be exercised only after obtaining prior permission of the Court to do so.
- 26.** As regards the power of the Investigating Agency to conduct further investigation, the Apex Court has observed in the case of **"Pramod Kumar Vs. The State of Uttar Pradesh"** [Judgment dated 04.02.2026 in SLP (Criminal) No. 350/2024] as follows:

"26. The issue regarding the procedure to be followed for directing further investigation in a case has been

dealt by this Court in the case of Vinay Tyagi (supra), wherein this Court while dealing with the contours of Section 173(8) relating to further investigation, propounded that the police ought to follow the procedure of seeking permission from the Court to conduct "further investigation" and file a supplementary chargesheet. The relevant paragraphs from the judgment are reproduced as under:

".....40. Having analysed the provisions of the Code and the various judgments as aforeindicated, we would state the following conclusions in regard to the powers of a Magistrate in terms of Section 173(2) read with Section 173(8) and Section 156(3) of the Code:

40.1. The Magistrate has no power to direct "reinvestigation" or "fresh investigation" (de novo) in the case initiated on the basis of a police report.

40.2. A Magistrate has the power to direct "further investigation" after filing of a police report in terms of Section 173(6) of the Code.

40.3. The view expressed in Sub-para 40.2 above is in conformity with the principle of law stated in Bhagwant Singh case [Bhagwant Singh v. Commr. of Police, (1985) 2 SCC 537 :

1985 SCC (Cri) 267] by a three-Judge Bench and thus in conformity with the doctrine of precedent.

40.4. Neither the scheme of the Code nor any specific provision therein bars exercise

of such jurisdiction by the Magistrate. The language of Section 173(2) cannot be construed so restrictively as to deprive the Magistrate of such powers particularly in face of the provisions of Section 156(3) and the language of Section 173(8) itself. In fact, such power would have to be read into the language of Section 173(8).

40.5. The Code is a procedural document, thus, it must receive a construction which would advance the cause of justice and legislative object sought to be achieved. It does not stand to reason that the legislature provided power of further investigation to the police even after filing a report, but intended to curtail the power of the court to the extent that even where the facts of the case and the ends of justice demand, the court can still not direct the investigating agency to conduct further investigation which it could do on its own.

40.6. It has been a procedure of propriety that the police has to seek permission of the court to continue "further investigation" and file supplementary charge-sheet. This approach has been approved by this Court in a number of judgments. This as such would support the view that we are taking in the present case....." add 49 and 50 (Emphasis Supplied)

In this very judgment, this Court, while noting that although there is no explicit mandate under Section 173(8) CrPC to seek the leave of the Court before conducting further investigation, nevertheless, over

time, a practice has been developed to seek permission of the Court. Therefore, the practice of seeking the leave of the Court will have to be read into the provisions of Section 173(8), and it is essentially a prerequisite for directing further investigation. This Court therein held as follows:

"...49. Now, we may examine another significant aspect which is how the provisions of Section 173(8) have been understood and applied by the courts and investigating agencies. It is true that though there is no specific requirement in the provisions of Section 173(8) of the Code to conduct "further investigation" or file supplementary report with the leave of the court, the investigating agencies have not only understood but also adopted it as a legal practice to seek permission of the courts to conduct "further investigation" and file "supplementary report" with the leave of the court. The courts, in some of the decisions, have also taken a similar view. The requirement of seeking prior leave of the court to conduct "further investigation" and/or to file a "supplementary report" will have to be read into, and is a necessary implication of the provisions of Section 173(8) of the Code. The doctrine of contemporanea expositio will fully come to the aid of such interpretation as the matters which are understood and implemented for a long time, and such practice that is supported by

law should be accepted as part of the interpretative process.

*50. Such a view can be supported from two different points of view: firstly, through the doctrine of precedent, as aforenoticed, since quite often the courts have taken such a view, and, secondly, the investigating agencies which have also so understood and applied the principle. The matters which are understood and implemented as a legal practice and are not opposed to the basic rule of law would be good practice and such interpretation would be permissible with the aid of doctrine of contemporanea expositio. Even otherwise, to seek such leave of the court would meet the ends of justice and also provide adequate safeguard against a suspect/accused....” (Emphasis Supplied) The proposition of the law laid down in the case of **Vinay Tyagi** (supra) has been further affirmed by the Three Judge Bench of this Court in the case of **Vinubhai Haribhai Malviya and Others versus State of Gujarat and Another**, reported in (2019) 17 SCC 1.*

*27. This Court has dealt with a similar situation in the case of **Peethambaran Versus State Of Kerala & Anr.**, reported in the (2024) 16 SCC 65, wherein the District Police Chief, i.e., Superintendent of Police, ordered further investigation. This Court therein, while quashing the order passed by the District Police Chief, held that the power to order further investigation rests either with the Magistrate concerned or a higher court, but not with an investigation agency. The relevant*

paragraphs from the judgment are reproduced as follows:

".....19. The Chief Police Officer of a district is the Superintendent of Police who is an officer of the Indian Police Service. Needless to state, an order from the District Police Chief is not the same as an order issued by the Magistrate concerned. Referring to Vinay Tyagi [Vinay Tyagi v. Irshad Ali, (2013) 5 SCC 762 : (2013) 4 SCC (Cri) 557] , this Court in Devendra Nath Singh v. State of Bihar [Devendra Nath Singh v. State of Bihar, (2023) 1 SCC 48 : (2023) 1 SCC (Cri) 270] noted that there is no specific requirement to seek leave of the court for further investigation or to file a supplementary report but the investigating agencies, have not only understood it to be so but have also adopted the same as a legal requirement.

The doctrine of contemporanea exposito aids such an interpretation of matters which have been long understood and implemented in a particular manner to be accepted into the interpretive process. In other words, the requirement of permission for further investigation or to file a supplementary report is accepted within law and is therefore required to be complied with.

20. In the facts at hand, it is clear that such a permission was never taken, granted or ordered. Consequently, FR-II is without basis. In FR-I it has been stated that in the

absence of any documents in respect of the financial transactions, the instant case may be treated as a false case. This, then would necessarily imply that after due investigation conducted by a duly authorised person, the conclusion is that the ingredients of the section mentioned in the FIR have not been met and no case is made out.

.....

28. In terms of second question, the above discussion makes clear that the District Police Chief, Kottayam could not have ordered further investigation, as that power rests either with the Magistrate concerned or with a higher court and not with an investigating agency.....” (Emphasis Supplied)

28. *In light of the legal position as settled by this Court through the above judgments, it is safe to say that the power to direct further investigation in a case rest solely at the discretion of the Magistrate/Court concerned. In the event, the police/ investigation agency is of the opinion that further investigation is necessary in any particular case to cull out complete facts and truth in the case, it is binding upon them to file an appropriate application before the Magistrate/Court, without directing an order for further investigation by themselves. Once such an application is filed by the investigation agency, the Magistrate/Court would apply its judicial mind, in light of the facts and circumstances of the particular case and the reasons demonstrated by the investigating agency, in order to exercise its discretion for exercise of*

its power to decide whether or not further investigation is to be ordered under the purview of Section 173(8) CrPC."

- 27.** Thus, from the above observations of the Apex Court, there remains no doubt over the legal proposition that though, after submission of charge-sheet, the police do have the power to conduct further investigation under Section 173 (8) of the Code of Criminal Procedure, 1973, however, such a power may be exercised only after obtaining prior permission of the Court.
- 28.** In the instant case, it appears that the charge sheet dated 30.03.2022 was put up before the learned Sub Divisional Judicial Magistrate (S) no.1, Kamrup (M) on 21.06.2022, however, no leave was sought for by the Officer-in-Charge of Fatashil Ambari Police Station or for that matter by the Investigating Officer to conduct further investigation. Merely making an endorsement, by the Investigating Officer, in the charge sheet that "*the investigation of the case will continue and supplementary charge sheet will be submitted whenever required*" does not amount to taking of prior permission for continuing further investigation and it does not enable him to continue with the investigation, even after submission of charge sheet. Such continuation of the further investigation on his own by the Investigating Officer without any prior permission of the Court does not have any legal sanction. Such an approach, which is contrary to law, may not be given any indulgence to and cannot be approved under any circumstances.
- 29.** In the instant case, though, the charge sheet was laid before the concerned Magistrate on 30.06.2022, however, till 29.08.2024, the fact

that the further investigation is going on was not brought to the notice of the Court. Thereafter also, when a report to that effect was called for by the Trial Court from the Officer-in-Charge of the concerned Police Station, he committed a blunder by submitting contradictory reports regarding the fate of further investigation. In one of the reports dated 14.11.2024, he has reported that the investigation in Fatashil Ambari P. S. Case No. 817/2021 is still continuing, whereas in another report of the same date, it was reported that the investigation has been completed and no supplementary charge sheet is to be filed.

- 30.** Be that as it may, since, further investigation, if any, carried on by the Investigating Officer without taking leave of the Court, does not have any legal sanction, hence, the reports furnished on 14.11.2024 and 20.11.2024 respectively, by the Officer-in-Charge of Fatashil Ambari Police Station loses any legal relevance.
- 31.** Further, had there been a valid further investigation carried out in the aforesaid case as per law, the Investigating Officer or the Officer-in-Charge of the concerned police station would have been duty bound under Section 173 (8) read with Section 173 (2) (ii) of the Code of Criminal Procedure, 1973 to communicate to the informant regarding the action taken by him regarding such further investigation, however, as in the instant case, the further investigation, if any, carried out by the Investigating Officer was without any sanction of law, the duty to communicate to the informant regarding the action taken by such police officer is not enforceable under law.
- 32.** Under such circumstances, there appears to be no infirmity in the impugned order dated 21.03.2025, whereby the Court of the learned

Sub Divisional Judicial Magistrate (S) No.1, Kamrup (M), Guwahati has decided to proceed with the trial of the accused persons before it, namely, the present respondent Nos.2 and 3.

- 33.** In view of the discussions made and reasons cited in the foregoing paragraphs, this Court finds no reason to invoke extraordinary inherent powers of this Court to interfere with the impugned order.
- 34.** This Criminal Petition is, accordingly, dismissed.
- 35.** Send a copy of this order to the Court of the learned Sub Divisional Judicial Magistrate (S) No.1, Kamrup (M), Guwahati.

JUDGE

Comparing Assistant