

Serial No. 02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Petn. No. 13 of 2023

Date of Decision: 09.06.2023

Smti Radha Ray Singh Vs. State of Meghalaya & Anr.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)	:	Mr. S.K. Roy, Adv.
For the Respondent(s)	:	Mr. A.H. Kharwanlang, Addl. Sr. GA
		Mr. J.N. Rynjah, GA (R-1)
		Mr. S. Thapa, Adv. (R-2)

i)	Whether approved for reporting in Law journals etc.:	Yes/No
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ii)	Whether approved for publication in press:	Yes/No
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ORDER (Oral)

1. Heard Mr. S.K. Roy, learned counsel for the petitioner who has submitted that this application under Section 482 Cr.PC has been filed with a prayer to set aside and quash the proceedings in GR Case No. 238(S)2016 under Section 188, 448 & 34 IPC pending before the court of the learned Judicial Magistrate First Class, Shillong.

2. The learned counsel has submitted that the genesis of the case relates to a Title Suit No. 43(T) 2015 between the petitioner and the private respondent herein, which case is proceeding before the court of the learned Assistant to Deputy Commissioner, Shillong. There is also a Misc. Case No. 104(T) 2015 arising out of the said Title Suit mentioned above wherein, vide order dated 17.08.2015 passed therein, the learned Assistant to Deputy Commissioner has directed for maintenance of status quo as against the parties therein.

3. The respondent No.2 has then lodged an FIR on 04.07.2016 before the Officer-In-Charge, Pasteur Beat House alleging violation of the said status quo order dated 17.08.2015 by the petitioner herein and another person named Yogendra Rai. Accordingly, a case was registered as Sadar PS Case No. 186(7)2016, under Section 188/426/427/448/34 IPC.

4. On investigation being launched, the Investigating Officer then filed his report and charge sheet on 23.11.2016, finding a prima facie case under Section 188/448/34 IPC being found well established against the petitioner and the said Shri Yogendra Rai and trial commenced in GR Case No. 238(S)2016 under Section 188, 448 & 34 IPC.

5. In course of proceedings before the Trial Court, the petitioner and the complainant has come to a reconciliation of sorts and have petitioned the Trial Court for quashing of the proceedings by compounding the offences involved. The Trial Court vide order dated 20.09.2022 has partly allowed the prayer of the petitioner and the other accused person to the extent that Section 448 being compoundable by the complainant, the

same is allowed. However, when it comes to the other offence under Section 188 IPC, the Trial Court has held that since the said Section cannot be compounded under Section 320 Cr.PC, therefore, the court has directed that trial will proceed for evidence as far as Section 188 is concerned.

6. The learned counsel has then submitted that the petitioner having no alternative and efficacious remedy available to him to petition before the Trial Court, he has accordingly approached this Court with this instant application.

7. The learned counsel has also submitted that to prove the bonafide of the parties involved, a Compromise Deed was executed on 22.05.2023 between the respondent No.2/complainant and the petitioner/accused to the effect that since the issues between the parties have been settled amicably, the First Party (respondent No.2) do not wish to pursue with the said GR Case No. 238(S) 2016.

8. Under the circumstances indicated above, the learned counsel has submitted that this Court may be pleased to allow this petition and to quash the said FIR dated 04.07.2016 and the related proceedings in GR Case No. 238(S) 2016.

9. Mr. S. Thapa, learned counsel for respondent No.2 has submitted that the respondent No.2 would confirm that since the parties have come to an amicable settlement as regard the alleged dispute and since the Compromise Deed in this respect has also been executed by the parties,

therefore, there is no objection to the prayer of the petitioner for closure of the said proceedings in the said GR Case No. 238(S) 2016.

10. Mr. A.H. Kharwanlang, learned Addl. Sr. GA appearing for the State respondent has submitted that since the parties have decided to compromise and have done so, therefore there is no strong objection by the State respondent to the prayer of the petitioner herein.

11. As one of the ingredients found available under Section 482 Cr.PC to constitute the inherent power which can be exercised by the High Court is that to ensure that ends of justice is met by application of such power, this case would come within such category.

12. In a catena of judgments, the Hon'ble Supreme Court as well as various High Courts in an attempt to whittle down unnecessary litigations in the form of frivolous or unfounded allegations or complaint which has found its way into the judicial system of our Country, resort is made to the application of the inherent power of the court to cut short such kinds of proceedings, particularly when the complainant would express the desire to no longer pursue the matter in court, perhaps on the ground that no fruitful results in the complainant's favour may come or that the parties themselves have reached an understanding and compromise or settlement as amongst themselves.

13. In the case of ***Narinder Singh & Ors. v. State of Punjab & Anr.***, the Hon'ble Supreme Court at para 29 has held that:-

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided

in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

....

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases."

14. In view of the abovementioned authority, this Court is convinced that the petitioner has made out a case for exercise of the inherent power of this Court under Section 482 Cr.PC.

15. However, the question arose as to how the proceedings can be quashed since admittedly, there are two accused persons in the case before the Trial court, one of them being the petitioner herein. The other

accused person has never approached this Court and accordingly no effective order can be passed as against him.

16. To this query, the learned counsel for the petitioner has submitted that this Court is not barred by such a situation when substantial justice is to be meted out and that the petitioning party has successfully made out a case for interference on his/her behalf. Even, in cases of this kind, the courts have molded the relief(s) to suitably impart justice where it is due.

17. Further, resting on this point, the learned counsel has submitted that this Court in an order dated 16.10.2019 passed in Crl. Rev.P. No. 7 of 2018 on an application under Article 227 r/w Section 397 & 482 Cr.PC for quashing a criminal proceeding under the facts and circumstances, has quashed the criminal proceedings qua the petitioner therein.

18. Reference was also made to the case of *Sunil Tomar v. State of NCT of Delhi & Anr*, CRL. M.C. 1741/2021 where under very similar facts and circumstances to the case herein, the Hon'ble Delhi High Court while disposing of an application under Section 482 Cr.PC vide order dated 12.04.2022, at para 9 has observed as follows:-

“9. Partial quashing or part quashing of FIR only qua the petitioner/accused with whom the complainant has compromised or settled the matter can be allowed and while quashing, it must be appreciated that the petitioner/accused cannot be allowed to suffer based on a complaint filed by the respondent, when subsequently, all disputes have been settled between the parties, Reliance can be placed on Poonam Khanna vs. State & Ors. in Crl,M.C.No. 3690/2016 Dated 30.01.2018.”

19. In view of the above, this Court is persuaded to allow this petition as deserving merit and accordingly the said FIR dated 04.07.2016 and the related GR Case No. 238(S) 2016 are hereby set aside and quashed.

20. The petitioner is released from all liabilities if any, in connection with the aforementioned GR Case No. 238(S) 2016.

21. Petition disposed of. No costs.

Judge

Meghalaya
09.06.2023
"N. Swer, Stenographer"

