

Serial No. 07
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn. No. 14 of 2023

Date of Decision: 27.03.2023

Shri. Vikas Jain & Anr.

Vs.

State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S.S. Yadav, Adv.

For the Respondent(s) : Mr. H. Abraham, GA.

Ms. A. Thungwa, GA.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT AND ORDER (ORAL)

1. Heard learned counsel for the parties.
2. Mr. S.S. Yadav, learned counsel for the petitioners has submitted that the Deed of Settlement dated 13.03.2023 arrived at between the parties herein have been filed before this Court by way of an affidavit, the same is accordingly taken on record.
3. The learned counsel has submitted that this is a case involving a matrimonial dispute between the petitioners herein being husband and wife to the extent that an FIR dated 13.11.2012 (Annexure-II of the petition) was lodged by the petitioner No. 2 before the Officer-in-Charge,

Laitumkhrah Police Station, East Khasi Hills, Shillong alleging physical and mental torture and also the demand of dowry of ₹ 20,00,000/- (Rupees twenty lakhs) by the petitioner No. 1 and his family members. On registration of the said FIR, the matter was investigated into and a formal charge sheet along with the report under Section 173 Cr.P.C was filed by the I/O with the findings that a prima facie case is found well established against the accused person therein who is the petitioner No. 1.

4. The matter on being taken cognizance of by the Court of the learned Judicial Magistrate First Class at Shillong, the charge under the relevant sections i.e. Sections 447/323/498A IPC read with Section 4 of the Dowry Prohibition Act, 1961 are yet to be framed. In the meantime, the learned counsel has submitted that good sense has prevailed and the parties being the members of a family unit along with their three children who are minors ranging between the ages of 3-10 have thought it fit and proper to settle their disputes for the sake of unity in the family and a peaceful atmosphere to prevail over the family.

5. The petitioner No. 2 is desirous to withdraw the said FIR, however some of the relevant sections under the IPC being non-compoundable, the parties have accordingly approach this Court with this instant petition.

6. It is also reiterated by the learned counsel for the petitioners that the petitioners being husband and wife with the consent, knowledge and

blessings of the family members of both sides and there being no more disputes as regard the complaint by the petitioner No. 2, the parties have petitioned this Court for necessary orders, inasmuch as, that the proceedings before the Trial Court be set aside and quashed.

7. Mr. H. Abraham, learned GA appearing on behalf of the State respondent has submitted that no strong objection is raised by the State respondent since the parties have mutually decided to settle their differences and that the Deed of Settlement has also been executed in this regard. However, the learned GA has pointed out that in the body of the Deed of Settlement, there are certain statements which may not be proper as far as the parties are concerned, inasmuch as, the agreement that the second party i.e. the petitioner No. 2 herein is desirous of withdrawing/quashing all legal proceedings against the husband/petitioner No. 1 herein and his family members could not be pursued before this Court, but before the appropriate and competent court. However, there is no dispute with the contents of the Deed of Settlement as far as the settlement between the parties are concerned.

8. Upon hearing the submissions of the learned counsel for the parties, this Court on perusal of the petition in hand and also taking note of the said Deed of Settlement is made to understand that the parties have indeed settled their differences amongst themselves and has averred that they are now living happily together with their children, as such, there

would be no purpose for the criminal proceedings to continue and thereby, taking note of such situation, this Court is in agreement that since the parties have settled their differences and a Deed of Settlement or Compromise has been executed. In view of the authorities set out in the case of *Shri. Narinder Singh & Ors. v. State of Punjab & Anr: (2014) 6 SCC* at para 29, 29.1, 29.2 & 29.3, the same being reproduced herein below for ready reference, this Court agrees that a similar situation is present herein:

“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.

29.3. Such a power is not be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on

society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.”

9. This Court accordingly, is persuaded that the petition has merits and the same is hereby allowed.

10. In view thereof, the proceedings in G.R Case No. 837(S) of 2013 under Sections 447/323/498A IPC read with Section 4 of the Dowry Prohibition Act, 1961 before the Court of the learned Judicial Magistrate First Class, Shillong is hereby quashed including the FIR dated 13.11.2012 on the basis of which the said case was instituted.

11. With the above, this petition is accordingly disposed of. No costs.



Judge

Meghalaya
27.03.2023
"D. Nary, PS"