

Serial No. 08
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn. No. 65 of 2023

Date of Decision: 18.07.2023

Miss Rosemary Makri & Anr.

Vs. State of Meghalaya & Anr.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. P.A. Dohkrut, Adv.
For the Respondent(s) : Mr. N.D. Chullai, AAG. with
Mr. A.H. Kharwanlang, Addl. Sr. GA.

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

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

JUDGMENT (ORAL)

1. Heard Mr. P.A. Dohkrut, learned counsel for the petitioners as well as Mr. N.D. Chullai, learned AAG assisted by Mr. A.H. Kharwanlang, learned Addl. Sr. GA appearing on behalf of the State respondents.

2. According to the petitioners, an FIR was lodged by the petitioner No. 2 against the petitioner No. 1 on 29.05.2014 before the Officer-in-Charge, Nongpoh Police Station, Ri-Bhoi District, Nongpoh. The contents

of the FIR would show that the informant and the accused who were travelling together by train from Guwahati towards Uttar Pradesh, in course of the journey, an incident occurred, wherein some persons accosted the complainant/petitioner No. 2 and out of fear, she alighted from the train and thereafter, she returned home to Nongpoh.

3. On reaching Nongpoh, assuming that the petitioner No. 1 is involved in the said incident, wherein she was almost assaulted by the said persons, an FIR was lodged in this regard.

4. On receipt of the said FIR, the police registered a criminal case being Nongpoh P.S. Case No. 88 (5) of 2014, in due course being registered as G.R. Case No. 168 of 2014 under Section 365/420 IPC. At present, the stage of the case is for consideration of charges.

5. In the meantime, the complainant and the accused having realized that it was on account of a misunderstanding of the situation that has led to the filing of the said FIR, good sense prevailed and so as not to cause any inconvenience or prejudice to the parties, particularly the petitioner No. 1/accused, the petitioner No. 1 and the petitioner No. 2 respectively have come to a compromise and understanding between them and to this effect, has executed a Compromise Letter dated 6th June, 2023, wherein it is stated that on account of misunderstanding, the said FIR was lodged and that no

prejudice will be caused to either of the parties, if the criminal trial and proceedings be quashed. Hence, this application.

6. The learned AAG appearing on behalf of the State respondents has submitted that no strong objection is made to the prayer of the petitioners, however, on perusal of the records and the said Compromise Letter annexed as Annexure-4 to this petition, it is seen that the same has been made on a plain paper without being authenticated or notarized and to this extent, the learned AAG has submitted that though the prayer of the petitioners may be allowed, however, the matter may be remanded to the Trial Court with a direction to cause the petitioners herein to execute a proper Compromise Deed and thereafter, the matter to be disposed of accordingly at that level.

7. In answer to this contention, this Court, on perusal of the petition, would notice para 6 of the same, which is reproduced herein below:

“6. That the Petitioners have now come into understanding and reconciliation that all that had happened that leads to the said case is due to lack of proper communication, misunderstanding, ignorance, panic and fear. And, the said reconciliation is also done in the present of both-side of the family members and subsequently the Compromise Letter dated Nongpoh – 06.06.2023 was signed by both the parties who are the Petitioners themselves.”

8. It is also to be reminded that the petition has been filed with an affidavit sworn by the petitioner No. 1 who has also averred that she is duly

authorized by the petitioner No. 2 to swear the same on her own and the petitioner's No. 2 behalf and as such, when the averments have been confirmed by an affidavit, only in a case of an apparent attempt to mislead the court or to swear an affidavit on facts which are not correct, the court would accept the same as being made bonafide. Accordingly, the submission of the learned AAG on this count is not accepted.

9. On an overall consideration of the case of the parties, since the matter has been resolved at their personal level and there is no direct implication as far as the society's interest is concerned, the offence are also not heinous or serious in nature, the parties, if they are come to a compromise, the same is liable to be accepted by the court.

10. Time and again, this Court in similar situated circumstances and cases have referred to relevant authorities and the off repeated case of *Narinder Singh & Ors v. State of Punjab & Anr: (2014) 6 SCC 466*, particularly para 29, 29.1, 29.2 and 29.5 would be relevant to the facts and circumstances herein. For ready reference, the same are reproduced hereunder:

“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.”

11. Accordingly, in exercise of inherent power under Section 482 Cr.P.C, this petition is allowed and consequently, the FIR dated 29.05.2014 as well as the proceedings in G.R. Case No. 168 of 2014 pending before the Court of the Subordinate District Council Court at Nongpoh are hereby set aside and quashed.

12. The accused is released and discharged from any liability as far as the said case is concerned.

13. In view of the above, this petition is accordingly disposed of. No costs.

Judge

Meghalaya
18.07.2023
"D. Nary, PS"

