

GAHC040000512023



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

Case No. : Crl.Petn. 10/2023

1:Akbar Ali and Anr.
S/o Lt. Md. Abdul Aziz,
Permanent Resident of Katahbari Nizarapur, 1 No Masjid, House No. 78, Ward No. 7,
PO Ambari, PS Garchuk (Gauhati), District Kamrup (Assam).
Cont. No. 9435194536

2: Kenter Tacha
S/o Lt. Moken Tacha

Permanent Resident of E Sector
Near Yes Bank
Itanagar
PO/PS Itanagar
District Papum Pare (AP)

VERSUS

1:THE STATE OF AP
Represented through Public Prosecutor.

Advocate for the Petitioner : T J Dogum

Advocate for the Respondent : P P of AP

**BEFORE
HONBLE MR. JUSTICE KAKHETO SEMA**

ORDER

Date : 26.04.2023

Heard Mr. T.J Dogum, learned counsel for the petitioner and Ms. L. Hage, learned Addl. P.P. for the State.

The present petition has been filed under section 482 of the Cr.P.C, 1973 r/w Article 227 of the Constitution of India invoking the inherent power of the Court for quashing the FIR dated 11.01.2023 and the Itanagar P.S Case No. 10/23 under section 279/336/427 IPC.

The facts of the case, in brief is that on 10.01.2023, the truck bearing Regd. No. AS-01-NC 1669 driven by the petitioner No.1 hit the car of the petitioner No. 2 bearing Regd. No. AR-01J-3522 at E-Sector near Yes Bank, Itanagar causing damaged to the car of the petitioner No.2. Consequent to the accident, the petitioner No.2 lodged the FIR dated 11.01.2023 to the Officer-in-Charge, P.S Itanagar and pursuant to which the Itanagar P.S Case No. 10/23 under section 279/336/427 IPC was registered against the petitioner No.1. However, immediate to the registration of the case, the petitioner No. 1 & 2 execute the agreement dated 17.01.2023 agreeing to amicably settle the dispute between them. By the said agreement, the petitioner No.1 agreed to repair the vehicle of the petitioner No.2 and the latter also agreed not to prosecute the case against the petitioner No.1.

I have heard the learned counsel for the petitioner as well as the learned Addl. P.P. for the State.

Ms. L. Hage, learned Addl. P.P submits that considering the nature of the case she will not oppose the application but leave the matter to the discretion of the Court.

This Court has perused the petition jointly submitted by the petitioner and also the deed of settlement agreement dated 17.01.2023 executed between the parties.

The petitioner No.1 has been charged with the offence under section 279/336/427 IPC. Section 279/336 IPC are non-compoundable offence while section 427 is a compoundable offence. The petitioner No. 1 was basically charged for rash and negligent driving in which

the car belonging to the petitioner No.2 was damaged. However, considering that both the petitioner No. 1 & 2 had immediately compromise the case by executing the settlement agreement dated 17.01.2023, this Court finds that it would be futile to allow the police to continue the investigation of the Itanagar P.S Case No. 10/2023 under section 279/336/427 IPC.

This Court is further of the view that the complaint filed by the petitioner No.2 against the petitioner No.1 is not for a crime committed against the society nor it is a crime which is serious or heinous in nature. The FIR was lodged against the petitioner No.1 solely for rash and negligent driving in which the vehicle belonging to petitioner No.2 was damaged. This Court is therefore of the view that further investigation of the case against the petitioner No.1 will only cause harassment to the petitioner No.1 and will not be in the interest of justice.

This Court therefore by exercising the inherent power under section 482 of the Cr.P.C, 1973 accordingly quash the complaint dated 11.01.2023 and the Itanagar P.S Case No. 10/2023 u/s 227/336/427 IPC and further investigation in the case against the petitioner No.1, and/or the criminal proceeding, if any pending, in connection with the said case.

This petition is accordingly allowed.

JUDGE

Comparing Assistant