

GAHC040000812023



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

Case No. : Crl.Petn. 14/2023

1:King Doka
S/o Shri Robo Doka,
A Resident of Dokum Colony, A Sector, Naharlagun, Papum Pare, Arunachal Pradesh.

Mobile No. 9402248085

VERSUS

1:THE STATE OF AP
Represented by the Public Prosecutor

Advocate for the Petitioner : Tabo Gyadi

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE NANI TAGIA

ORDER

Date : 24.01.2023

Heard Mr. T. Gyadi, learned counsel for the petitioner. Also, heard Ms. T. Jini, learned Additional P.P. for the State.

2. In this petition, under Section Section 482 of the Code of Criminal Procedure, 1973, the petitioner has prayed for quashing of the Itanagar

Women P.S. Case No. 19/2022, under Section 498(A)/323 Indian Penal Code and the Charge-sheet filed pursuant thereto vide Charge-sheet No. 22/2022 (G.R. No.115/2022) under Section 498(A)/323 Indian Penal Code dated 16.02.2022.

3. The case of the petitioner as can be gathered from the pleadings filed is that an F.I.R. dated 05.01.2022 was lodged before the Officer-Incharge of Women Police Station, Itanagar by one Smti Yajung Doka, the wife of the petitioner against the petitioner for mental and physical torture as well as destruction of property etc. Pursuant to the aforesaid F.I.R. dated 05.01.2022, a formal F.I.R. under Section 154 of the Cr.P.C. was registered on 06.01.2022 vide Itanagar Women P.S. Case No. 03/2022, under Section 498(A)/323/427/34 IPC.

4. Consequent upon completion of the investigation carried out, the petitioner was Charge-sheeted vide Charge-sheet No. 21/2022 under Section 498(A)/323/427/34 IPC dated 16.02.2022 before the Chief Judicial Magistrate, Yupia and the trial of the case is stated to be going on before the Judicial Magistrate First Class, Yupia on being endorsed to it.

5. On 06.02.2022, the wife of the petitioner had again lodged an F.I.R. against the petitioner to the Officer In-charge, Itanagar Women Police Station alleging that the petitioner came to the house and forcefully taken away the Scooty of her son on 05.02.2022 and on 06.02.2022, while she was on the way to Itanagar to report the matter, the petitioner blocked her way near Sunday market, Naharlagun and dragged her out of the car and assaulted her. Thereafter the key of her car and her mobile handset was taken away by the petitioner. On receipt of the aforesaid F.I.R. dated

06.02.2022, it is the case of the petitioner that the Officer In-charge, Itanagar Women Police Station had registered the case as Itanagar Women P.S. Case No. 19/2022, under Section 498(A)/323 IPC. While endorsing the case for investigation to herself, the Officer In-charge had made a noting in the body of the F.I.R. dated 06.02.2022 that the alleged accused person had violated the bail condition in Itanagar Women P.S. Case No. 03/2022, under Section 498(A)/323/427/34 IPC. After completion of the investigation of the case, the petitioner has again been Charge-sheeted on 16.02.2022 vide Charge-sheet No. 22/2022 under Section 498(A)/323 IPC. In the Charge-sheet No. 22/2022, it has been *inter alia* found that when the informer/wife of the petitioner was stopped at Sunday market area she was assaulted in front of the public as a result of which she has sustained injuries on her body. It has also been mentioned in the Charge-sheet that thereafter, the petitioner had snatched the car key from the informer/wife of the petitioner and taken away her car.

6. Assailing the second F.I.R. dated 06.02.2022 and the Charge-sheet filed pursuant thereto vide Charge-sheet No. 22/2022, dated 06.02.2022 under Section 498(A)/323 IPC, Mr. Gyadi, learned counsel for the petitioner contends that since the Officer In-charge of the Women Police Station, Itanagar while registering the formal F.I.R. on the basis of the F.I.R. lodged by the complainant on 06.02.2022 had made an observation in the body of the F.I.R. dated 06.02.2022 that the petitioner had violated the bail condition in Itanagar Women P.S. Case No. 03/2022, the second F.I.R. ought not to have been registered and investigated upon, rather, the investigating authority ought to have taken recourse for cancelling the bail of the petitioner granted by the Court, in connection with earlier Itanagar Women

P.S. Case No. 03/2022.

7. In support of his contention that it is impermissible to register a second case against the petitioner when the Officer In-charge had observed in the body of the F.I.R. dated 06.02.2022 that the petitioner had violated the bail condition imposed on him by the Court, while granting bail in connection with Itanagar Women P.S. Case No. 03/2022 has placed reliance in the judgment of the Hon'ble Supreme Court, reported in **(2002) 3 SCC 598, Ram Govind Upadhyay Vs. Sudarshan Singh and Others.**

8. Ms. T. Jini, learned Additional P.P. for the State on the other hand submits that the second F.I.R. dated 06.02.2022 lodged against the petitioner is entirely for a separate cause of action. The registration of the second case against the petitioner and the Charge-sheet filed pursuant thereto being for a separate and distinct act of the petitioner is permissible under the law and no relief can be granted as sought for by the petitioner in attending the facts and circumstances of this case.

9. Upon hearing the learned counsel for the parties and on perusal of the materials available on record, it is noticed that Itanagar Women P.S. Case No. 03/2022, under Section 498(A)/323/427/34 IPC was registered on an F.I.R. lodged on an allegation made against the petitioner for mental and physical torture as well as destruction of property by the petitioner, which was caused by the petitioner on 01.01.2022 by damaging the car of the informant/wife of the petitioner, bearing Registration No. AR-01N-8014 with stone whereby, wind seal of the car was broken. It was on the basis of the aforesaid allegation made in the F.I.R. that the Itanagar Women P.S. Case No. 03/2022 was registered and the Charge-sheet No. 21/2022 under

Section 498(A)/323/427/34 IPC was filed against the petitioner on 16.02.2022.

10. A perusal of the second F.I.R. dated 06.02.2022 lodged by the wife of the petitioner against the petitioner to the Officer In-charge Itanagar Women Police Station reveals that the petitioner had forcefully taken away the Scooty of her son on 05.02.2022 and when she was on her way to Itanagar to report the matter, the petitioner blocked her way near Sunday market, Naharlagun and dragged her out of her car and thereafter assaulted her and took away the key of the car and the mobile handset of the informant/wife of the petitioner. It was on the basis of investigation carried out pursuant to a registration of the formal case vide Itanagar Women P.S. Case No. 19/2022 that the petitioner was again Charge-sheeted under Section 498(A)/323 IPC vide Charge-sheet No. 22/2022 dated 16.02.2022.

11. Thus, a comparison of the F.I.R. dated 05.01.2022 and the second F.I.R. dated 06.02.2022 lodged by the wife of the petitioner against the petitioner before the Officer In-charge of Itanagar Women Police Station was distinctly for a different sets of act committed by the petitioner. If the alleged act of the petitioner in the 2(two) F.I.R lodged against the petitioner by the informant/wife of the petitioner is for a distinct and different sets of act(s) of the petitioner, I am of the view that in such a case there cannot be a legal bar for registration of 2(two) separate cases and filing of 2(two) separate Charge-sheets, if the act of the petitioner is found to be attracted by any provisions under the IPC of any other penal law notwithstanding the endorsement made by the Officer In-charge, Itanagar Women Police Station on the body of the second F.I.R. i.e. on 06.02.2022 that the petitioner had

violated the bail condition imposed on him by the Court in earlier Itanagar Women P.S. Case No. 03/2022.

12. The decision of the Hon'ble Supreme Court in ***Ram Govind Upadhyay (Supra)*** relied on by Mr. Gyadi, learned counsel for the petitioner pertains to the mode of exercise of Court's discretion while granting bail as well as rejection thereof and beyond that the said judgment of the Supreme Court does not provide that whenever, a bail condition is violated by the accused in a given case and if, such accused person commits yet another act, which is distinct and different from the act(s) alleged in the first case, which attracts provision of any penal law, such a person cannot be proceeded against by registering another case against him.

13. In view of the above, I find no merit in the instant criminal petition and the same stands dismissed being devoid of merit.

JUDGE

Comparing Assistant