

GAHC040001022023



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

Case No. : Crl.Petn. 17/2023

1:Phassang Rupo and Anr.
S/o Late Phassang Tukia,
R/o Dhassang, PO/PS Banderdewa, Papumpare District, Arunachal Pradesh.

2: Tagru Tari
Village Karsingsa
PO/PS Banderdewa
Papumpare District
Arunachal Pradesh

VERSUS

1:THE STATE OF AP
Through the Public Prosecutor, Arunachal Pradesh.

Advocate for the Petitioner : Dakjum Riba

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 02-03-2023

Heard Ms. D. Riba, learned counsel for the petitioners and Mr. T. Ete, learned Addl. PP for the State of Arunachal Pradesh.

2. This is an application under Section 482 Cr.P.C. praying for quashing

and setting aside the G. R. Case No. 712/2020 under Section 279/337/427 IPC pending against the petitioner No. 1 Shri Phassang Rupo before the learned CJM, Yupia, Papumpare District, Arunachal Pradesh arising out of Banderdewa P.S. Case No. 27/2020 under Section 279/337/427 IPC and subsequent Charge-Sheet No. 16/2020, dated 24.06.2020 under Section 279/337/427 IPC.

3. The brief facts of the case is that on the day of the incident both the petitioner Nos. 1 & 2 met with an accident, wherein, both the vehicle collided with each other bearing registration No. AR-02A-1428 and AR-01G-0812 at NH-415 near Kharsingsa due to bad road condition and the petitioner No. 1 got injured and right leg was broken completely and severe injury occurred in right side of the body including two ribs were broken for which he had to be admitted in the Hospital for treatment and the treatment continued for 3 months but the petitioner No.2 lodged the FIR only to claim the vehicle insurance from insurance company after the accident though he did not sustain any injury as stated in the FIR. However, the FIR was lodged alleging that due to the fault of the motorcycle the alleged incident had happened and the petitioner No. 2 took the petitioner No. 1 for treatment in the Hospital as he sustained injury. After lodging of the FIR, the case has been registered as Banderdewa P.S. Case No. 27/2020 under Section 279/337/427 IPC and after completion of the investigation, the Charge-Sheet was filed on 30.08.2021 under Section 279/337/427 IPC against the petitioner No. 1. Accordingly, on receipt of the summon, the petitioner No. 1 appeared before the learned CJM, Yupia who accordingly took cognizance of the

case and thereby fixed the matter for evidence.

4. After the petitioner No. 1 being summon by the learned CJM, Yupia, both the family members of the petitioner Nos. 1 & 2 entered into an agreement on 17.01.2023 and accordingly, the matter was settled and vide the settlement deed, dated 17.01.2023. The above settlement deed was mutually agreed between the parties on the following conditions, which are enumerated hereinbelow:

- “i that the FIR was lodged by the FIRST PARTY under the circumstances of claim the vehicle insurance from insurance company to repair the damages causes by unfortunate incident;*
- ii. that the SECOND PARTY and FIRST PARTY are relative and neighbour from same locality and known to each other very well;*
- iii. that the both (FIRST PARTY and SECOND PARTY) are daily wage earner and they are on their way to daily duty when fateful accident took place;*
- iv. that the accident happened due to bad road condition of NH-415 and evening fogging which visibility was less;*
- v. that after knowing the actual facts of the case, the FIRST PARTY and SECOND PARTY including both the families member had conveyed a meeting where they settled the matter amicably without pressure and sound mind;*
- vi. that both the parties bear and taken care of medical expenses jointly while SECOND PARTY was admitted at medical for treatment;*
- vii. that the FIRST PARTY and SECOND PARTY really feels sorry about the criminal trial going on against SECOND PARTY for unfortunate accident.*
- viii. that the pendency of the above-mentioned criminal case is someway acts as hurdle-unwantedly for the parties and their families, relatives and societies to maintain harmony and cordial relations”.*

5. Accordingly, the learned counsel for the petitioner has submitted that this is a fit case where the provision of Section 482 Cr.P.C. can be implied with and there is no possibility of conviction in the said case as the case

has already been compromised between the petitioner Nos. 1 & 2 and hence, it is fit case where the case is pending before the learned CJM, Yupia can be quashed and set aside along with the Charge-Sheet against the petitioner No. 1. It is further submitted by the learned counsel for the petitioners that Section 279 IPC under which the petitioner No. 1 has been charged is non compoundable offence and hence their cannot be any compounding of offence under Section 320 Cr.P.C. for which both the petitioner Nos. 1 & 2 are seeking quashing of the criminal case pending before the learned CJM, Yupia.

6. The learned counsel for the petitioners further relied on a decision of Hon'ble Apex Court in the case of Narinder Singh and Others-vs-State of Punjab and Another; reported in (2014) 6 SCC 466, wherein, the Hon'ble Apex Court 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.

“29.3. 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 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.

“29.4. On the other, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves”.

7. Mr. Ete, the learned Addl. PP submitted in this regard that after perusal of the entire case record and the annexures, it is an admitted fact that the petitioner No. 1 i.e. the accused sustained injury in the said accident and the informant himself took the accused/petitioner No. 1 for the medical treatment, however, it is seen that the compromise between the parties were about 3 years later, though, the accident had happened on 28.11.2020 but the learned Addl. PP raised no objection, if the same is set aside and quashed considering the compromise between the parties. Further, it is submitted that the possibility of conviction against the petitioner No. 1 is very remote and bleak and continuance of criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite for a complete settlement and compromise with the informant and hence, the power under Section 482 Cr.P.C. can be very well complied with in the present case.

8. Considering the submission made by both the parties and also considering the fact of compromise between the parties, I find it a fit case where power under Section 482 Cr.P.C. can be invoked.

9. In the result, I find sufficient merit in this petition and accordingly, the same stands allowed.

10. The G. R. Case No. 712/2020 under Section 279/337/427 IPC pending against the petitioner No. 1 Shri Phassang Rupo before the learned CJM, Yupia, Papumpare District, Arunachal Pradesh arising out of Banderdewa P.S. Case No. 27/2020 under Section 279/337/427 IPC and the subsequent Charge-Sheet No. 16/2020, dated 24.06.2020 under Section 279/337/427 IPC stands set aside and quashed.

In view of the above findings and discussions, this criminal petition stands disposed of.

JUDGE

Comparing Assistant