



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

Case No. : Crl.Petn. 39/2023

1. Miss BingamHano,
D/o Late Gobi Hano,
SodoDoke Village,
PO/PS: Tirbin, District Leparada, Arunachal Pradesh
Phone No. 7630864964
2. ShriTogeRiba,
S/o. ShriSitoRiba, Kadi Village,
PO/PS: Basar, District Leparada, Arunachal Pradesh
Phone No. 936281568

.....**Petitioners**

-Versus-

The State of Arunachal Pradesh represented through the Public
Prosecutor, Government of Arunachal Pradesh.

.....**Respondent**

- BEFORE-

HON'BLE MR. JUSTICE KAKHETO SEMA

Advocates for the petitioners : Mr. T. T.Tara,
Mr. D. Loyi,
Mr. G.Bam,
Mr. T. Kamchi

Advocate for the State respondent : Ms. T. Jini, Addl. P.P.

Date of hearing
& : **26.04.2023**
Date of judgment

JUDGMENT & ORDER (ORAL)

Heard Mr. G. Bam, learned counsel for the petitioner and Ms. T. Jini, learned Addl. P.P for the State.

2. That the petition has been filed jointly by the petitioner No.1 (complainant/victim) and the petitioner No.2 (accused) invoking the inherent powers of this Court under section 482 of the Cr. P.C, 1973 for quashing and setting aside the Itanagar Women Police Station Charge-sheet No. 91/2022 dated 09/09/2022 u/s 354/323/506 IPC (corresponding to Itanagar W.P.S Case/FIR No. 93/2022 dated 03/08/2022 and the criminal proceedings pending before the learned Chief Judicial Magistrate, Yupia.

3. The fact of the case in brief is that the petitioner No.1 and the petitioner No.2 are in a live-in-relationship and resides at the parental home of the petitioner No.2 at Nyigam Colony, Naharlagun, Arunachal Pradesh. On 01/08/2022, the petitioner No.1 bought an *i-phone* and requested the petitioner No.2 to install the required apps in the new set. While installing the required apps, the petitioner No.2 found that the petitioner No.1 had transferred a sum of Rs. 1000/- only to her former boyfriend. A quarrel accordingly arose between the petitioner No.1 & 2 and during which the petitioner No.2, in a fit of rage, assaulted the petitioner No.1 and also tore the clothes worn by her.

4. The petitioner No.1 accordingly lodged the FIR dated 03/08/2021 to the Officer-in-Charge, Women Police Station, Itanagar Papum Pare and consequent to which the Itanagar Women P.S Case No. 93/2022 dated 03/08/2022 was registered against the petitioner No.2 u/s 354/323/506 IPC. On completion of the investigation, the Itanagar Women Police submitted the Charge-sheet No. 93/2022 dated 09/09/2022 before the Court of the learned Chief Judicial Magistrate, Yupia and the case is at the stage of taking

cognizance before the said court.

5. That on 09/03/2022 both the petitioner No.1 and the petitioner No.2, under the initiative of the elders of both the parties and their well-wishers have resolved to amicably settle their differences and to live together by maintaining their cordial relations and has accordingly executed the deed of settlement dated 09/03/2023. The relevant part of the agreement dated 09/03/2023 reads as follows;

“1. That both the parties above named have amicably settle their relationship differences and misunderstanding.

2. That the second party does not have any grievances against the first party in relation to the above mentioned Itanagar Women Police Station Case No. 93/2022 which has been charge-sheeted u/s 323/354/506 of the Indian Penal Code, 1860.

3. That it is admitted by the 2nd party that the FIR was lodged due to the paranoiac state of mind and factured state of their relationship due to the domestic discord at that difficult period, however, after resolving their discord both the parties are happily living together.

4. That the 2nd party wishes to put an end to the above mentioned case, in order to ensure continued stability and non-disruption of their present relationship and future domestic life.

5. That the 2nd party undertakes and assures that she shall not pursue the Itanagar Women Police Station Case No. 93/2022 which has been charge-sheeted u/s 323/354/506 of the Indian Penal Code, 1860, against the 1st party.

6. That the 2nd party above named has no objection if any competent court exonerates or discharges or acquits the 1st party from his liabilities in the above mentioned case.

7. That the 2nd party also undertakes and assures that she will help the 1st party in any legal proceeding for getting dismissal or withdrawal of the above noted case before any appropriate court. .

8. That in view of the intervention of the family

members and well-wishers both the parties above named have decided and settled their dispute amicably now and forever to live peacefully.....”

6. Mr. G. Bam, the learned counsel for the petitioners submits that pursuant to the execution of the settlement dated 09/03/2023, both the parties are living peacefully under one roof continuing to maintain their cordial relations before and therefore, this Hon'ble Court may be gracious to accept the settlement dated 09/03/2023 and discharge the petitioner No. 2 from the criminal liabilities of the case by quashing the criminal Case. The learned counsel also submits that as the offence charge against the petitioner No.2 is not heinous in nature affecting the society at large, but personal to the parties, this Court may liberally accept the settlement executed between the parties. It is further submitted that since by the settlement, the petitioner No.1 has agreed not to pursue the case against the petitioner No.2 but to render all assistance to the petitioner No.2 for getting the case dismissed before any competent court, it is very unlikely that the petitioner No.1, as the complainant, will come forward and depose the case against the petitioner No.2 in the course of the trial. In such a scenario, the learned counsel submits, the prosecution against the petitioner No.2 may end in futility without any meaningful result to sub-serve the cause of justice.

7. Ms. T. Jini, the learned Addl. P.P. submits that since the parties have already compromised the misunderstanding between them by executing the settlement dated 09/03/2023 she would leave the matter to the discretion of the Court.

8. Heard the learned counsel for the parties and perused the petition. It is seen that the petitioner No.1 & 2 are in a live-in-relationship and residing at the parental home of the petitioner No. 2. The FIR against the petitioner No.2 was lodged by the petitioner No.1 due to certain misunderstanding which cropped up between the parties. This Court has also perused the medical certificate dated 02/08/2022 of the petitioner No.1 and seen that the injury inflicted is 'simple'. Furthermore, it is also relevant to note the findings of the Investigation Officer in the charge-sheet which reads as "Investigation

reveals that victim Ms. BingamHano and alleged accused TogeRibawere boyfriend-girlfriend. On 01/08/2022, Bingam bought a new i-phone and Tago was asked to install the required application in the new handset. In that when he installed G-Pay he saw Bingam had some amount to her ex-boyfriend and Tago confronted to his girl. That was the point when the alleged accused TogeRiba started assaulting Bingam and ripping her clothes. The victim hid herself in the bathroom and out of frustration she tried to commit suicide by hanging herself on the shower but the alleged accused broke open the bathroom and rescue her. However, no eye witness is available in the case." Though, this Court is not supposed to go into the merit of the case while deciding the petition under section 482 Cr. P.C, yet the findings of the I.O in the charge-sheet itself reveals that the case against the petitioner No. 2 was instituted purely out of misunderstanding between the petitioner No. 1 & 2 which was personal to them. This Court has also perused the Deed of Amicable Settlement dated 09/03/2023 where the petitioner No.1 has agreed that she will not pursue the case against the petitioner No.2 but will assist the petitioner No. 2 to get the case dismiss and/or withdrawn from the court. It is therefore very unlikely that the case will end up in conviction against the petitioner No.2. This Court has also seen that the charge-sheet against the accused was submitted only on 09/09/2022 and the cognizance of the case against the accused is yet to be taken. It is therefore clear that the charge in the Case has not been framed and the evidence against the accused is yet to commence. Considering the facts narrated above, this Court does not find any cogent reasons to allow the case to proceed against the petitioner No.2.

9. In the case of **Madan Mohan Abbot -versus- State of Punjab**, reported in **(2008) 4 SCC 582**. The Hon'ble Supreme Court has held that;

"6. We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts,

grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.”

10. So also in the case of **Narinder Singh & Others** -versus- **State of Punjab & Another**, reported in **(2014) 6 SCC 466**. The Hon’ble Supreme Court has held that;

“11. As to under what circumstances the criminal proceedings in a non-compoundable case be quashed when there is a settlement between the parties, the Court provided the following guidelines: (Gian Singh case⁵, SCC pp. 340-41, para 58)

“58. Where the High Court quashes a criminal proceeding having regard to the facts that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc. or other offences of mental depravity under [IPC](#) or offences of moral turpitude under special statutes, like the [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavor having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes

between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.”

27. At this juncture, we would like also to add that the timing of settlement would also play a crucial role. If the settlement is arrived at immediately after the alleged commission of offence when the matter is still under investigation, the High Court may be somewhat liberal in accepting the settlement and quashing the proceedings/investigation. Of course, it would be after looking into the attendant circumstances as narrated in the previous paragraph. Likewise, when challan is submitted but the charge has not been framed, the High Court may exercise its discretionary jurisdiction. However, at this stage, as mentioned above, since the report of the I.O. under [Section 173Cr. P.C.](#) is also placed before the Court it would become the bounding duty of the Court to go into the said report and the evidence collected, particularly the medical evidence relating to injury etc. sustained by the victim. This aspect, however, would be examined along with another important consideration, namely, in view of settlement between the parties, whether it would be unfair or contrary to interest of justice to continue with the criminal proceedings and whether possibility of conviction is remote and bleak. If the Court finds the answer to this question in affirmative, then also such a case would be a fit case for the High Court to give its stamp of approval to the compromise arrived at between the parties, inasmuch as in such cases no useful purpose would be served in carrying out the criminal proceedings which in all likelihood would end in acquittal, in any case.

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.....

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.

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.

29.6.

29.7. While deciding whether to exercise its power under [Section 482](#) of the Code or not, timings of

*settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above.
.....”*

11. In the light of the discussion made above and the law laid down by the Hon’ble Supreme Court, this Court is of the considered opinion that the continuation of the criminal proceeding against the petitioner No.2 on the basis of the Charge-sheet dated 09/09/2022 u/s 354/323/506 IPC would amount to an abuse of the process of law. The offence charge against the petitioner No.2 are not serious in nature showing extreme depravity nor are they against the society. On the other hand, the acceptance of the compromise agreement between the parties would bring peaceful and harmonious existence between the two sides ushering in a peaceful relation between the parties and their family members.

12. In the circumstances, this Court accepts the Deed of Amicable Settlement executed between the parties on 09/03/2023 and quash and set aside the Itanagar Women Police Station Charge-sheet No.91/2022 dated 09/09/2022 u/s 354/323/506 IPC (corresponding to Itanagar W.P.S Case/FIR No. 93/2022) dated 03/08/2022 and the proceedings pending in the case before the Court of the learned Chief Judicial Magistrate, Yupia, Arunachal Pradesh.

13. The petition is allowed. No cost.

14. Send back the scanned copies of the LCR forthwith.

JUDGE

Comparing Assistant

