

GAHC040005362023



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

Case No. : Crl.Petn. 68/2023

1:Tadar Tarang and 3 Ors.
S/o Tadar Panior,
Permanent Resident of Village Langtlot, PO/PS Nyapin, District Kurung Kumey,
Arunachal Pradesh.
8453275116

2: Pisa Dongro @ Taro
S/o Pisa Langlang

Permanent R/o Village Lee
PO Sarli
PS Koloriang
District Kurung Kumey
Arunachal Pradesh.

3: Tarh Demi
S/o Tarh Keshi

Permanent Resident of Village Hiya
PO/PS Nyapin
District Kurung Kumey
Arunachal Pradesh.

4: Bengia Bapu
S/o Late Bengia Kaya
Permanent R/o Village Tayang
PO/PS Koloriang
District Kurung Kumey
Arunachal Pradesh

VERSUS

1:THE STATE OF AP
Represented through the Public Prosecutor.

Advocate for the Petitioner : Habung Aape

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

ORDER

Date : 12-06-2023

Heard Mr. H. Aape, learned counsel for the petitioners and Mr. G. Tado, learned Addl. PP for the State of Arunachal Pradesh.

2. This is an application under Section 482 of the Code of Criminal Procedure, 1973 praying for setting aside and quashing of the criminal proceeding being G. R. Case No.04/2021 pending before the learned Judicial Magistrate, First Class, Koloriang on the basis of the settlement entered into by the parties.

3. The facts leading to filing of the present petition was that an FIR was lodged on 10.12.2020 by the petitioner Nos. 3 & 4 alleging that the petitioner Nos. 1 & 2 were creating nuisance in various government departments of Kurung Kumey District by seeking financial aids in the name of All Kurung Kumey District Students Union by impersonation. They had introduced themselves as the President and General Secretary of All Kurung Kumey District Students Union. On the basis of the said complain, the case was registered on 09.01.2021 being the Koloriang P.S. Case No. 01/2021 under Section 419/465/500/34 IPC, 1860. After the completion of investigation, the case culminated in the submission of Charge-Sheet being Charge-Sheet No. 14/2021. The charges were framed on 10.05.2022 against the petitioner Nos. 1 & 2 under Section 465/34 IPC and the case is at the stage of evidence.

4. During the pendency of the case, the informant and the accused entered into a

settlement deed on 07.12.2022 and 18.12.2022 at Koloriang, Kurung Kumey District, wherein, the parties have agreed and decided to withdraw all the cases, both civil and criminal case against each other, in order to, maintain a cordial relationship among themselves and work together for the interest of students community of Kurung Kumey District.

5. Mr. H. Aape, learned counsel for the petitioners submits that in view of the settlement entered into between the parties and also considering that the parties are living peacefully among themselves for the welfare of students fraternity, the continuance of the proceeding of the present case will be a futile exercise inasmuch as, the chances of conviction are remote and bleak. Therefore, the criminal proceeding being G. R. Case No. 04/2021 corresponding to Koloriang P.S. Case No.01.2021 under Section 465/34 IPC pending before the learned Judicial Magistrate, First Class, Koloriang may be quashed.

6. Mr. G. Tado, learned Addl. PP for the State of Arunachal Pradesh fairly submits that the offence being punishable up-to 2 years and parties have entered into settlement, this Court may pass appropriate order on the facts and circumstances of the present case.

7. I have considered the submission advanced by the learned counsel for the parties and also perused the materials available on record.

8. The principle of law is well settled regarding the exercise of inherent power under Section 482 Cr.P.C. This Court would profitably refer to the law enunciated by the Hon'ble Supreme Court in the case of ***State of Madhya Pradesh-vs-Lakshmi Narayan.***, reported in ***(2019) 5 SCC 688*** and the relevant paragraphs is reproduced hereinbelow:-

“15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1 that the power conferred under Section 482 of the Code to quash

the criminal proceedings for the non-compoundable offences under [Section 320](#) of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2 such power is not to be exercised in those prosecutions which involved 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;

15.3 similarly, such power is not to be exercised for the offences under the special statutes like [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;

15.4 offences under [Section 307](#) IPC and the [Arms Act](#) etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under [Section 307](#) IPC and/or the [Arms Act](#) etc. which have a serious impact on the society cannot be quashed in exercise of powers under [Section 482](#) of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of [Section 307](#) IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of [Section 307](#) IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under [Section 307](#) IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5 while exercising the power under [Section 482](#) of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc."

9. It reveals that the petitioners are students leader and they have decided to work

together for the welfare of the students fraternity in the District of Kurung Kumey by entering into a settlement deed. It appears that continuance of proceedings before the learned JMFC, Koloriang may be a futile one as the chances of conviction is bleak.

10. The Settlement has been entered into without any coercion and threat from any corner. Therefore, this Court is of the considered view that this petition deserves to be allowed.

11. Accordingly, this Criminal Petition stands allowed by setting aside the G. R. Case No. 04/2021 corresponding to Koloriang P.S. Case No. 01/2021 pending before the learned Judicial Magistrate, First Class, Koloriang.

12. In the result, this Criminal Petition stands allowed and disposed of.

JUDGE

Comparing Assistant