

GAHC040006192023



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

Case No. : Crl.Petn./81/2023

Giogi Yapi Nabam and 4 Ors.
D/o Late Giogi Takio,
Presently residing at Lekhi Village, Nirjuli, PO/PS Nirjuli, District Papum Pare,
Arunachal Pradesh. 2: Lishi Adap Nabam
Age:
Occupation :

3: Dugi Nap @ Yumom
Age:
Occupation :

4: Likha Apo
Age:
Occupation

VERSUS

THE STATE OF AP
Represented by the Public Prosecutor, Arunachal Pradesh Gauhati High Court,
Itanagar Permanent Bench, Naharlagun.

Advocate for the Petitioner : Taba Topu

Advocate for the Respondent : P P of AP

**BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 06.11.2023

Heard Mr. T. Topu, learned counsel for the petitioners. Also heard Ms. T. Jini, learned Additional Public Prosecutor for the State respondent.

2. This is an application under Section 482 of the Code of Criminal Procedure, 1973, praying for quashing the F.I.R. of Nirjuli P.S. Case No. 32/2022, registered under Sections 451/452/380/34 of the Indian Penal Code, as well as the Charge-Sheet No. 42/2022.

3. It is submitted by the learned counsel for the petitioners, Mr. T. Topu, that due to the mistake of the I.O., the name of some persons were wrongly mentioned in the Charge-Sheet. But, subsequently, the I.O. filed corrigendum mentioning the name of the present accused petitioner Nos. 2, 3, 4 & 5 as accused persons in the Charge-Sheet. Further it is submitted that during the pendency of the present case, both the parties have arrived at an amicable settlement and the informant as well as the accused persons are not willing to proceed with the case any further and hence, the present petition has been jointly filed by both the informant as well as the accused persons praying for quashing of the F.I.R., Charge-Sheet as well as the criminal proceeding pending before the learned Chief Judicial Magistrate, Yupia. He further submitted that the F.I.R. was lodged due to misunderstanding between the parties and both the informant and the accused persons belong to same family and presently they are living peacefully without any differences. Further it is submitted that

since the matter has already been amicably settled between the parties, there is no probability of any conviction of the accused persons even if the proceeding is allowed to be continued, rather it will be an abuse of the process of the Court. Thus, it is submitted that it is a fit case where the power under Section 482 Cr.P.C. can be invoked for quashing and setting aside the criminal proceeding as well as the F.I.R. and the Charge-Sheet.

4. In this context, the learned Additional Public Prosecutor, Ms. T. Jini, has submitted that after filing of the corrigendum by the I.O., the learned Court below has issued process only against the present petitioner Nos. 2, 3, 4 & 5. However, she submitted that since both the parties have resolved their dispute amicably, the State has no objection in the event of allowing the petition.

5. After hearing the submissions of learned counsels for both sides, I have perused the petition and the documents placed on record and I find that the present petition is jointly preferred by the informant and the accused persons. It also appears that they have resolved their dispute amicably by executing a deed of mutual settlement in presence of their family members and they are now living peacefully without any differences.

6. In the case of **State Of Madhya Pradesh Vs. Laxmi Narayan**, reported in **(2019) 5 SCC 688**, Hon'ble Supreme Court, in paragraph No. 13(i), observed that "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 of 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.” It is further held that “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.”

7. Here in this case, the dispute between the informant and the accused persons is a family dispute and they have resolved the entire dispute amongst themselves and now they are living peacefully.

8. In view of above, ends of justice would be meted out if the petition is allowed. Further, since the matter has already been settled between the petitioners, it is unlikely that the informant will depose against the accused petitioner Nos. 2, 3, 4 & 5, and in that event allowing the proceeding to continue before the learned Court below would be an abuse of the process of the Court.

9. Under the above facts and circumstances, this Court is of the view that this is fit case where the extra-ordinary power under Section 482 of the Code of Criminal Procedure can be invoked to quash the proceeding pending before the Court of learned Chief Judicial Magistrate, Yupia. Accordingly, the petition stands

allowed. The F.I.R. of Nirjuli P.S. Case No. 32/2022, under Sections 451/452/380/34 of the Indian Penal Code, as well as the Charge-Sheet No. 42/2022 and the criminal proceeding pending before the Court of learned Chief Judicial Magistrate, Yupia, stands set aside and quashed.

10. In terms of above, this criminal petition stands disposed of.

JUDGE

Comparing Assistant