

GAHC040006392023



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

Case No. : Crl.Petn./83/2023

Yo Anung and Anr.
W/o Tana Susen Tara,
Resident of Amba Village, Doimukh, PO/PS Doimukh, Distric Papum Pare,
Arunachal Pradesh. 2: Tana Susen Tara
Age:
Occupation

VERSUS

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

Advocate for the Petitioner : Taba Topu

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

JUDGMENT

Date : 17-07-2023

1. Heard Mr. Taba Topu, learned counsel for the petitioners.
2. Also heard Ms. L. Hage, learned Addl. PP for the State of Arunachal Pradesh.

3. I have given my anxious considerations made at the Bar.
4. This is a joint petition under Section 482 Cr.P.C. praying for setting aside and quashing of the Charge-Sheet No.119/21 of G. R. Case No. 27/21 arising out of Itanagar Women P.S. Case No. 13/21.
5. The brief facts of the case is that the petitioner No. 1 is the wife and the petitioner No. 2 is the husband and they have amicably settled their dispute and have executed a deed of agreement before the Executive Magistrate, which is marked as Annexure-3 to the petition. The allegation was that the petitioner No. 1 i.e. the wife was subjected to cruelty by the petitioner No. 2 i.e. the husband who had also indulged in extra marital affairs.
6. At present, both the parties have amicably settled their disputes and now they are willing to stay together peacefully and harmoniously as husband and wife.
7. The statements of the witnesses under Section 161 Cr.P.C. have also been annexed as Annexure-2 to the petition.
8. Further, the learned counsel for the petitioners has relied on the decision of the Hon'ble Supreme Court in the case of ***State of Madhya Pradesh-vs-Laxmi Narayan***; reported in ***[2019] 2 S.C.R. 864***, wherein, it has been observed as under:-

“i)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;

ii) 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;

iii) 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;

iv) 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;

v) 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. In the instant case, both the parties have amicably settled their disputes,

therefore, possibility of conviction appears to be remote and bleak and the disputes between the parties are predominantly private in nature.

10. In view of the foregoing discussions, the Charge-Sheet No.119/21, G. R. Case No. 27/21 arising out of Itanagar Women P.S. Case No. 13/21 is hereby set aside and quashed.

In terms of the above, this Criminal Petition stands disposed of.

JUDGE

Comparing Assistant