

GAHC040006692023



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

Case No. : Crl.Petn./86/2023

S. Rajamannar and 2 Ors.
S/o Late Shanguma Thevar,
R/o Rajarajeshwari Nagar, Palayamkottai,
PO/PS Perumalpuram, District Tirunelveli, Tamil Nadu.
M. No. 9362659000 2: Poongothai
Age:
Occupation :

3: R. Ramalingam
Age:
Occupation

VERSUS

THE STATE OF AP and Anr.
Represented through Public Prosecutor. 2:S. B. Deepak Kumar
Age: 0
Occupation

Advocate for the Petitioner : Lissing Perme

Advocate for the Respondent : P P of AP

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

21.11.2023

Heard the learned counsel Mr. L. Perme appearing for the petitioners. Also heard Mr. K. Tabang, the learned counsel representing respondent no.2.

2. This is an application under Section 482 of the CrPC praying for quashing of G.R. Case No.182/2015 under Sections 387/506 of the Indian Penal Code read with Section 34 of the said Code arising out of the Changlang Police Station Case No.11/2008 pending in the court of the learned Chief Judicial Magistrate, Changlang, Arunachal Pradesh.

3. The respondent no.2 S.B. Deepak Kumar (informant) is an IAS Officer and at the relevant point of time he was working as the Additional Deputy Commissioner at Changlang. On 12.03.2008, S.B. Deepak Kumar lodged an FIR before police alleging that the petitioners, namely- S. Rajamannar (aged about 78 years), his wife Smti. Poongothai (aged about 67 years) and their son R. Ramalingam (aged about 49 years) have been making threatening calls to him by mobile phone. It is further alleged that the petitioner S. Rajamannar used to send to the informant some threatening messages over mobile phone.

4. It is alleged by the informant that the three abovenamed petitioners

threatened him that they will kill him if he does not force his sister to withdraw a criminal case filed by her at Madurai. The petitioners allegedly demanded a sum of ₹15 lakhs from the informant or else, he will be killed.

5. On the basis of the FIR, police registered a case and ultimately filed the *charge sheet* against the petitioners.

6. The petitioners disclosed that in the year 1998 Shri R. Biswanathan, the eldest son of the petitioners S. Rajamannar and Smti. Poongothai married Smti. S.B. Indumathi, the sister of the informant S.B. Deepak Kumar. The couple was in the United States of America. They even had a daughter.

7. In the year 2007, there were some domestic disputes between R. Biswanathan and his wife Smti. S.B. Indumathi. It is claimed that the cause of the dispute was the extra-marital relationship Smti. S.B. Indumathi had maintained with her colleague Narayan Subbarao.

8. The present petitioners raised the aforesaid issue before the parents of Smti. S.B. Indumathi and her brother S.B. Deepak Kumar, the present informant but, S.B. Deepak Kumar had responded differently. He allegedly used to send some aggressive threatening messages, E-mails to the petitioners. It is further stated by the petitioners that S.B. Deepak Kumar, being the brother of Smti. S.B. Indumathi, had several rounds of talks with R. Biswanathan and Smti. S.B. Indumathi.

9. Thereafter, Smti. S.B. Indumathi lodged an FIR before police alleging that she was harassed on account of failure to bring sufficient dowry. The FIR was lodged before All Women Police Station at Madurai and a case

was registered under Section 498A/406 of the Indian Penal Code etc.

10. In the meantime, Smti. S.B. Indumathi also filed a divorce proceeding at Madurai.

11. The petitioners have stated that they even filed an application in the Supreme Court praying for transferring the present criminal case pending at Changlang to a court at Egmore, Chennai. The said transfer petition was dismissed by the Supreme Court.

12. The petitioners had claimed that the entire criminal case is the outcome of the marital dispute between R. Biswanathan and Smti. S.B. Indumathi.

13. Today, the learned counsel Mr. K. Tabang appearing for the private respondent no.2 has submitted that the private respondent has no objection if the criminal proceeding is quashed.

14. I have considered the submissions made by the learned counsels of both sides.

15. The guidelines for quashing of the criminal proceeding has been laid down by the Hon'ble Supreme Court in State of *Haryana and Ors. -versus- Bhajanlal and Ors.*, reported in AIR 1992 SC 604. Paragraph 102 of the said judgment is quoted hereunder:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to

prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

16. In *Bhajanlal* (supra), the Supreme Court has cautioned that the power under Section 482 of the CrPC is to be sparingly used by the High

Courts. The power under Section 482 of the CrPC is meant to prevent abuse of the process of the court.

17. Reverting to the case in hand, this Court is of the opinion that the ratio laid down by the Hon'ble Supreme Court is applicable in the present case. I find that under the given facts and circumstances of the case, there is no possibility of future conviction in this case. Thus, allowing the criminal proceeding to continue before the learned trial court would be nothing but an abuse of the process of the court. It is a fit case for exercising the power under Section 482 of the CrPC.

18. In view of the above, the G.R. Case No.182/2015 under Sections 387/506 of the Indian Penal Code read with Section 34 of the said Code arising out of the Changlang Police Station Case No.11/2008 pending in the court of the learned Chief Judicial Magistrate, Changlang, Arunachal Pradesh is set aside and quashed.

The Criminal Petition stands disposed of accordingly.

JUDGE

Comparing Assistant