

GAHC040008652023



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

Case No. : Crl.Petn./117/2023

Nabam Tadung and Anr.
S/o Shri Nabam Tai,
a Permanent Resident of Village Pilla III, PO Mengio and PS Sagalee, District Papum
Pare, Arunachal Pradesh.
Phone No. 9862388482 2: Nabam Tama
Age:
Occupation

VERSUS

THE STATE OF AP
Represented by Public Prosecutor.

Advocate for the Petitioner : Kago Taja

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 06.09.2023

Heard Mr. N. Talin, learned counsel for the petitioners. Also heard

Ms. L. Hage, learned Additional Public Prosecutor for the State respondent.

1. This is an application under Section 482 of the Code of the Criminal Procedure, 1973 (hereinafter referred to as Cr.P.C) for quashing of the FIR dated 11.04.2023, filed at Naharlagun Police Station by the petitioner No. 2 of this Case, namely, Shri Nabam Tama against the petitioner No. 1, namely, Shri Nabam Tadung and which was forwarded to Sagalee Police Station and on the basis of which Sagalee P.S. Case No. 10/2023, under Sections 363/365/341/342/506 IPC was registered. The present petition under Section 482 Cr.P.C has been filed jointly by the first informant as well as the accused praying for quashing of the aforementioned FIR and subsequent proceeding.

2. The facts relevant in this Case, in brief, are that on 11.04.2023, the petitioner No. 2 in the instant Case, namely, Shri Nabam Tama, lodged an FIR before the Officer-In-Charge of Naharlagun Police Station, *inter-alia*, alleging that on 08.04.2023 the petitioner No. 1, namely, Shri Nabam Tadung have abducted the drivers of the Tata Mobile vehicle belonging to the petitioner No. 2, the name of the drivers are Md. Atiquil Islam and Md. Monnas Ali. It is further alleged in the FIR that when the informant of the FIR, namely, Shri Nabam Tama, who is the present petitioner No. 2 reached the place where the petitioner No. 1 had kept the abducted persons, they were found there in a peaceful condition. It is also alleged

that some altercation and heated argument occurred between the petitioner Nos. 1 & 2, wherein, the petitioner No. 1 threatened the petitioner No. 2. On receipt of the said FIR, the Office-In-Charge of Naharlagun Police Station forwarded the same to the Officer-In-Charge of Sagalee Police Station as the place of occurrence of alleged offence falls within the jurisdiction of Sagalee Police Station. Thereafter, the Sagalee P.S. Case No. 10/2023 was registered.

3. It is submitted by the learned counsel for the petitioners that the FIR was lodged by the petitioner No. 2 against the petitioner No. 1 due to misunderstanding. It is also submitted that the actual fact is that in Silsango circle, the petitioner No. 2, on 08.04.2023 saw one Tata Mobile vehicle coming towards Capital Complex, Itanagar, fully loaded of timber and on seeing this, as the petitioner No. 1 is a member of All Silsango Youth Association, stopped the said vehicle to enquired about the timber. When the petitioner No. 1 asked for the valid documents for carrying the timber, the driver could only show a document issued by Gaon Bura which according to the petitioner No. 1 was not a valid document and this resulted into a heated argument between the petitioner No. 2 and the petitioner No. 1 and later on due to misunderstanding, the petitioner No. 2 lodged the FIR against the petitioner No. 1. It is submitted by the learned counsel for the petitioners that the matter now has been amicably settled between the parties and to that extent the parties of this Case have also executed a settlement deed which is annexed As annexure-IV along with

the instant petition. It is also submitted that no incident of kidnapping or intimidation, as alleged in the FIR, has occurred and the FIR was lodged due to misunderstanding which arose between the parties during exchange of heated arguments.

4. The learned counsel for the petitioners has also submitted that there was no incident of wrongful restrained or wrongful confinement or criminal intimidation by the petitioner No. 1 to either to the petitioner No. 2 or to his drivers with whom he had arguments over carrying of wooden logs in the Tata Mobile vehicle of the petitioner No. 2. It is submitted by the learned counsel for the petitioner that as the matter has been amicably compromised between the parties, however, merely because of quoting of non-compoundable Sections, namely, Sections 363 and 365 of the Indian Penal Code, at the time of registration of the Sagalee Police Station Case No. 10/2023 against the petitioner No. 1, same could not be compounded and it would only result into discord between the parties and would deteriorate their mutual relationship and may create sense hatred between the parties, hence in the interest of justice and in the interest of peaceful co-existent of both the petitioners, the FIR dated 11.04.2023 may be quashed.

5. On the other hand, Ms. L. Hage, learned Additional Public Prosecutor has produced the Case Diary of Sagalee P.S. Case No. 10/2023, which was called for in connection with this Case. She has fairly submitted that the

Investigating Officer has recorded the statement of witnesses including the petitioner No. 1 and the petitioner No. 2 and the alleged victims, namely, Md. Atiqul Islam and Md. Monnas Ali. She has further submitted that there is no sufficient materials against the present petitioner No. 1 to implicate him under Sections 365/363 of the Indian Penal Code and even if the charge-sheet is laid in this Case there is a very bleak chance of the Case resulting into conviction.

6. I have considered the submissions made by the learned counsel for the parties as well as perused the Case Diary of Sagalee P.S. Case No. 10/2023. Though it is no *res-integra* that Court should be slow in quashing the proceedings wherein heinous and offence are involved, however, in the instant Case, after examining the materials on record it appears that though Section 463 and Section 465 of the Indian Penal Code are quoted at the time of registration of Sagalee P.S. Case No. 10/2023. However, there is no sufficient materials justifying the registration of the said Case under the said provision of law. Thus, in the instant Case, the offence involved are not heinous or serious in nature and this Court is to take into consideration of the fact that the settlement reached between the parties is going to result into harmony between the parties and would improve their mutual relationship and will bring peace in their locality where they are residing. The lodging of the FIR by the petitioner No. 2 against the petitioner No. 1 appears to be a consequence of heated argument which occurred between them regarding carrying of wooden logs in the vehicle

of the petitioner No. 2. As the parties have resolved their dispute amicably amongst themselves continuance of criminal case against the petitioner No. 1 would result only into agony, oppression and discord between the parties. Though the petitioner No. 2 has agreed to withdraw the Case, however, due to non-compoundable nature of two of the Sections under which the Sagalee P.S. Case No. 10/2023 was registered, namely, Sections 363/365 of the Indian Penal Code and the same could not be done. Thus, under the facts and circumstances, as discussed herein before, this Court is of considered opinion that this is a fit Case where extra ordinary jurisdiction of this Court may be exercised for quashing the FIR dated 11.04.2023 and resultant Sagalee P.S. Case No. 10/2023 for ends of justice.

7. Accordingly, the aforementioned FIR and aforesaid Sagalee P.S. Case No. 10/2023 is hereby quashed and set aside and this Criminal Petition is accordingly disposed of.

Send back the Case Diary.

Let the copy of this order be furnish to the Investigating Officer of Sagalee P.S. Case No. 10/20323.

JUDGE

Comparing Assistant