

GAHC040008672023



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

Crl. Petion./119(AP)/2023

- 1. Smt. Aruna Chetry (victim),**
Aged about 42 years,
D/o- Late Bal Bahadur Chetry,
Resident of Changlang,
P.O. and P.S. Changlang,
District Changlang, Arunachal Pradesh.

- 2. Shri Samuel Modi (Accused person),**
Aged about 48 years,
S/o- Late Titil Modi,
Permanent resident of village Rayang,
P.O. and P.S. Ruksin,
District East Siang, Arunachal Pradesh.

...PETITIONERS

VERSUS

- 1. The State of Arunachal Pradesh,**
represented by the Public Prosecutor.

...RESPONDENTS

Advocate for the Petitioner : Mr. O. Modi

Advocate for the Respondent : Mr. T. Jini, Addl.P.P.

:::BEFORE:::

HON'BLE MRS. JUSTICE MITALI THAKURIA

Date of hearing & Judgment: 04.08.2023

JUDGMENT & ORDER (ORAL)

Heard Mr. O. Modi, learned counsel for the petitioners. Also heard Ms. T. Jini, learned Additional Public Prosecutor for the State respondents.

2. This is an application under Section 482 Cr.P.C jointly filed by the victim and accused, praying for quashing the FIR dated 24.08.1999, which is registered as Changlang P.S. Case No. 15/1999 under Sections 366(A)/368 IPC, and also for quashing of the subsequent proceeding and the Charge-Sheet No. 16/1999 filed in the said case.

3. The petitioner No. 1 is the alleged victim in this case and the petitioner No. 2 is the accused person in connection with the Changlang P.S. Case No. 15/1999, under Sections 366(A)/368 IPC.

4. The brief fact of the case is that in the first part of the year 1999, the petitioner Nos. 1 & 2 had developed good intimacy and relationship and they developed love and affection between them and also intended to

marry each other with the mutual understanding. Both the petitioners eloped away to Magrgherita on 23.08.1999 and they stayed there upto 25.08.1999 and thereafter, the father of the petitioner No. 1 lodged the FIR before the Changlang Police Station against the petitioner No. 2 out of anger. After investigation, the I.O filed charge-sheet against the petitioner No. 2 before the learned Deputy Commissioner, Changlang, under Sections 366(A)/368 IPC.

5. But in the meantime, the informant and the victim filed a statement before the Court of the learned Deputy Commissioner Changlang, stating that the petitioner No. 2 did not kidnap the petitioner No. 1 and out of misunderstanding and anger, the FIR was lodged and also it is stated that with mutual consent of each other and with out of love and affection, they eloped from Changlang to Magrgherita. But during the pendency of the instant case, both the petitioners got married to their respective community and hence, the informant i.e., the father of the petitioner No. 1, filed the petition for withdrawal of the case and on the same day the petitioner No. 1 also filed the petition before the Court of the learned Deputy Commissioner for withdrawal of the case. But in the meantime, after separation of the judiciary, the matter is transferred and pending before the learned District and Session Judge, Khonsa.

6. As both the petitioners got married to their respective community and are happily settled in their own life, the petitioner No. 1 is not at all interested to proceed with the case. During the pendency of the case, the informant i.e., the father of the victim, also died, but before his death he

approached the learned Deputy Commissioner with a petition for withdrawal of the case.

7. It is submitted by the learned counsel for the petitioners that as the parties have compromised the matter and settled the case, the possibility of conviction is remote even if the proceeding is allowed to be continued. Rather it would cause oppression and prejudice to both the petitioners and further proceeding of the case will be an abuse of the process of law. Hence, it is a fit case where the power under Section 482 Cr.P.C can be invoked for quashing the criminal proceeding as well as the FIR and the Charge-Sheet of the instant case. It is further submitted that the Sections which have been Charge-Sheeted in this case are also not attracted against the petitioner No. 2 and are also not heinous and serious in nature and also they are in private in nature and will not impact on the society.

8 In this context, the learned Additional Public Prosecutor Ms. T. Jini, has submitted that as the parties have arrived at a settlement and in pursuant to their mutual settlement, the withdrawal of the case was already filed by the informant during his life time as well as by the victim before the learned Deputy Commissioner, Changlang, and hence, the prosecution has no objection, if the present petition is allowed for quashing the FIR dated 24.08.1999 and the Charge-Sheet dated 25.11.1999, pending before the Court of learned District and Session Judge, Khonsa.

9. After hearing the submissions made by the learned counsel for both sides and considering the nature of offence as well as the compromise

between the parties and also considering the fact that the case is private in nature, I find that this case squarely covers by the judgment of the Hon'ble Apex Court passed ***in Bhajan Lal's Case*** as well as in ***Laxmi Narayan's case***.

10. In view of the above and also considering the entire aspects of the case as well as the law laid by the Hon'ble Apex Court in the case laws referred to hereinabove, I am of the view that this is a fit case where the inherent power under Section 482 Cr.P.C can be invoked. Accordingly, FIR, dated 24.08.1999, registered as Changlang P.S. Case No. 15/1999, under Sections 366(A)/368 of the Indian Penal Code and the subsequent proceeding and Charge-sheet No. 16/1999, are hereby set aside and quashed.

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

JUDGE

Comparing Assistant