

GAHC040010572023



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

Case No. : Crl.Petn./143/2023

Katem Jamoh and 5 Ors.

S/o Shri Obang Jamoh, R/o village 2 mile Pasighat, P.O/P.S Pasighat, East Siang
District, Arunachal Pradesh. 2: Smti Tokmem Pangkam

Age:

Occupation :

3: Kalen Pertin

Age:

Occupation :

4: Kukut Talom

Age:

Occupation :

5: Ojing Taye

Age:

Occupation :

6: Tabit Tatak

Age:

Occupation

VERSUS

THE STATE OF AP
Through the Public Prosecutor, Arunachal Pradesh.

Advocate for the Petitioner : Adam Tatak
Advocate for the Respondent : P P of AP

BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA
ORDER

Date : 10-08-2023

Heard Mr. A. Tatak, learned counsel for the petitioners. Also heard Mr. T. Ete, learned Additional Public Prosecutor representing the State respondent.

2. This application is filed under Section 482 of the Code of Criminal Procedure, 1973, praying for quashing and setting aside of the Charge-sheet No.168/2011 under Section 447/336/506/34 of IPC dated 11.12.2011, corresponding to the G.R. Case No.67/2011 arising out of the Pasighat P.S. Case/FIR No.67/2011 dated 13.04.2011, registered under Sections 447/336/506/34 of IPC, which is pending before the Court of learned Chief Judicial Magistrate, Pasighat.

3. I have given my anxious consideration to the submissions at the Bar, with circumspection.

4. The brief facts leading to the filing of the present criminal petition is that, the petitioner Nos. 1 and 2 is the informant and the petitioner Nos. 3 to 6 are the alleged accused persons in connection with the aforesaid case. It is stated

that the instant case arose out of an FIR filed by the petitioner No.1 stating *inter alia* that, on the day of the incident, at around 12.00 A.M. some miscreants, i.e. the accused persons entered into the Hostel campus resorted to stone pelting and throwing of beer bottles at Girls Hostels of J.N. College, Pasighat, thereby, creating disturbances and spreading of fear psychosis during exam time and they also threatened the girls. Accordingly, on receipt of the written complaint, the case was registered on 13.04.2011 as Pasighat Case No.67/2011, under Sections 447/336/506/34 of IPC and subsequently after investigation, the charge-sheet was filed being numbered as C.S. No.168/2011 dated 11.12.2011 against the accused persons/petitioner Nos. 3 to 6.

5. In pursuant to the charge-sheet, the petitioner Nos. 3 to 6 were summoned to appear before the Court of learned Chief Judicial Magistrate, Pasighat on 20.06.2023. However, it was submitted before the learned Trial Court that one of the co-accused, Victor Perme had already expired and had prayed to abate the criminal proceedings against the said person. As, such, the said Court had considered the prayer made by the petitioners and deemed it appropriate to proceed with the instant case against the petitioner Nos.3, 4, 5 and 6.

6. It is stated that after filing of the charge-sheet, the informants/petitioner Nos.1 & 2 and accused persons/petitioner Nos. 3 to 6 has entered into a Deed of Amicable Settlement on 31.06.2023 by considering the fact that the incident occurred at midnight and the informants were not able to identify the persons, who were inside the compound of girls' hostel. Thus, the FIR was lodged due to

some misunderstanding between the parties. However, at present the informants are not willing to pursue the matter as the matter has already been settled in the year 2011 and they are living peacefully and also belongs to respectable families.

7. Since Section 336 is non-compoundable offence, and the learned Trial Court is not in a position to compromised the matter under Section 320 Cr.P.C. Therefore, the petitioner Nos. 1 to 6 have jointly filed this application for quashing of the entire proceedings pending before the Court of learned Chief Judicial Magistrate, Pasighat by invoking the Section 482 of Cr.P.C.

8. In this context, Mr. T. Ete, learned Additional Public Prosecutor has submitted that the matter is private in nature, thus, he raised no objection on the prayer made by the petitioners; as the matter has been settled amicably between the parties. Further, it is also seen that the informants/petitioner Nos.1 & 2 is not at all willing to proceed with this case and thus, it is an admitted fact that both the parties have entered into amicable settlement with some terms and conditions and thus there is remote chance of conviction even if the proceeding is continued.

9. Further, the learned Additional Public Prosecutor has submitted that the accused/Victor Perme is not a party herein this case, as per the petition, he expired and there should be no order of quashing of the said accused person.

10. 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) 5 SCC 688**, wherein, it has been observed as under:-

"11.3 In the case of [Narinder Singh vs. State of Punjab](#) (2014) 6 SCC 466, after considering the decision in the case of [Gian Singh](#) (supra), in paragraph 29, this Court summed up as under:

"29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under [Section 482](#) of the Code is to be distinguished from the power which lies in the Court to compound the offences under [Section 320](#) of the Code. No doubt, under [Section 482](#) of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. 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.

29.3. Such a power is not to be exercised in those prosecutions which involve 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. Similarly, for the offences alleged to have been committed under special statute like the [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.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under [Section 307](#) IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. 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 proving 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. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under [Section 482](#) of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under [Section 482](#) of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under [Section 307](#) IPC is committed or not. Similarly, in those cases where the

conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under [Section 307](#) IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.” 9.4 In the case of Parbatbhai Aahir (supra), again this Court has had an occasion to consider whether the High Court can quash the FIR/complaint/criminal proceedings, in exercise of the inherent jurisdiction under [Section 482](#) Cr.P.C. Considering a catena of decisions of this Court on the point, this Court summarised the following propositions”.

11. 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 and further proceeding will be an abuse of the process of the Court.

12. After hearing the submissions made by both the learned engaged counsels as well as the view that the matter was compromised between the parties, I find that the present case squarely covers the judgment passed by the Hon’ble Apex Court in the case of **Laxmi Narayan (Supra)** and **State of Haryana & Ors. Vs. Bhajan Lal & Ors.**, reported in **1992 Supp (1) SCC 335**, and I am of the view that it is a fit case where the provision under Section 482 Cr.P.C. can be invoked.

13. In view of the foregoing discussions, Charge-sheet No.168/2011 dated 11.12.2011, corresponding to the G.R. Case No.67/2011 arising out of the Pasighat P.S. Case/FIR No.67/2011 dated 13.04.2011, registered under Sections 447/336/506/34 of IPC, pending before the Court of learned Chief Judicial

Magistrate, Pasighat, is hereby set aside and quashed.

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

JUDGE

Comparing Assistant