



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

Case No. : Crl.Petn. 100/2022

1. Shri Taje Hangu (accused)
S/O Tadung Hangu,
Permanent R/O, Vill-Pakba,
PO/PS-Taliha, Dist. Upper Subansiri, A.P.

Present Address; C/O: 1st AAPBN BHQ, Chimphu (5th IRBN, F-COY) ,
Papum Pare District, Arunachal Pradesh.

2. Shri Gyonashwar Shahi (informant)
S/O Munshi Shahi

Present R/O; 5th IRBN, A-COY, BHQ-Pasighat,
PO/PS-Pasigaht, Dist.-East Siang, Arunachal Pradesh.

3. Shri Alung Wangpan (victim)
S/O- Lt. Khamhi Wangpan

Present Address: C/O- Commandant 1st IRBN, B-Coy,
Longding District, A.P.

...PETITIONERS

-VERSUS-

1. THE STATE OF ARUNACHAL PRADESH

REP. BY THE A.P.P.

....RESPONDENT

Advocates for the petitioners : Ms. C. Ering, Adv.

Advocates for the respondent : Ms. L. Hage, A.P.P.

:::BEFORE:::

HON'BLE MRS. JUSTICE MITALI THAKURIA

Date of hearing : 28.11.2022

Date of Judgment & Order : 20.04.2023

JUDGMENT & ORDER (CAV)

Heard Ms. C. Ering, learned counsel for the petitioners. Also heard Ms. L. Hage, learned Additional Public Prosecutor representing the State respondent.

2. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973, praying for quashing and setting aside of the proceeding of Klg P.S. Case No.01/2018, registered under Section 326 of the Indian penal Code, which is pending before the Court of learned Judicial Magistrate, 1st Class at Koloriang, District Kurung Kumey, Arunachal Pradesh.

3. The brief facts leading to the filing of the present petition is that;

3.1. The FIR was lodged by one Head Constable namely Gyonashwas Shahi/petitioner No.2/informant of the 5th IRBN In-charge Judicial Jail,

Koloriang, before the Koloriang Police Station on 09.01.2018, with a allegation that on 08.01.2018 at around 2200 Hrs. a quarrel took place amongst the 5th IRBN personnel deployed at Judicial lock-up Koloriang, which turned into fist and fight. During the course of fight one constable Alung Wangpan/petitioner No.3/victim got stabbed in the chest by sharp edge weapon by one Constable Taje Hangu/ petitioner No.1/accused. Accordingly, on receipt of the complaint a case vide Koloriang P.S. Case No.01/2018, was registered under Section 324 of the IPC on the same day. Thereafter, the Koloriang Police have investigated the case and filed charge-sheet being numbered as CS.No.17/21, dated 17.04.2021 against the petitioner No.1/accused.

3.2. Thereafter, the Court of learned Judicial Magistrate, 1st Class, Koloriang had proceeded for trial, but, none of the prosecution witnesses were examined.

3.3. In the meantime, the accused petitioner No.1 had approached before the petitioner No.2 & 3, being the informant and the victim and settled the case amongst themselves for cordial relationship and amicable relationship with each other without any grudge whatsoever and during this long period of time both the parties moved ahead with their respective lives. At present they are happily settled with their respective life.

4. Accordingly, the present petition has been filed jointly by the petitioners for quashing of the proceeding of the Klg P.S. Case No.01/2018, u/s 326 of the IPC, pending before the Court of learned Judicial Magistrate, 1st Class, Koloriang, District Kurung Kumey, on the ground of settlement made between the parties and for the interest of justice.

5. The learned counsel for the petitioners has submitted that the matter has been settled amicably between the parties, and even the victim, i.e. the petitioner No.3 is not willing to proceed with the instant case. He also submitted that the dispute between the parties arose, only due to simple misunderstanding. As such on dated 03.05.2022 & 04.05.2022, both the informant /petitioner No.2 and the victim/petitioner No.3 have authorized the alleged accused/petitioner No.1 to file quashing petition under Section under Section 482 of the Code of Criminal Procedure, 1973 of Cr.P.C., 1973 before this Court, in order to secure the ends of justice and to prevent the abuse of the process of any Court.

6. He also submits that there are no grievances against each other after the settlement of disputes, but, as the Section invoked is non-compoundable and the learned Trial Court has no authority to quash or compound the aforesaid case, the present petition is filed before this Court for quashing of the criminal proceeding. He further submitted that the continuing of the trial in connection with the said case will not only be abuse of the process of the learned Trial Court, but will also hamper the cordial relationship among themselves and may hamper the carrier of the accused/petitioner No. 1.

7. In addition, the learned counsel for the petitioners also relied on the decision of the Hon'ble Apex Court in ***Narinder Singh and others Vs. State of Punjab & Anr.***, reported in (2014) VI, SCC, 466, wherein, it is held that *"when the parties have reached the settlement and when the possibility of conviction is remote and bleak and continuation of the criminal case would be futile, the High Court, in exercise of its power to set aside the criminal proceeding in order to secure the ends of justice and to prevent the abuse of the process of any Court."*

8. In this context, Ms. L. Hage, learned Additional Public Prosecutor has submitted that injuries sustained by the victim is found to be grievous in nature, and the petition for quashing is filed only at the stage of evidence. Hence, she requested to remand back the case before the learned Trial Court for further proceeding.

9. In this regard, the learned counsel for the petitioners have submitted that the entire dispute aroused only due to some misunderstanding and also the parties have already settled their matter in presence of the witnesses and elderly persons by conducting Kebang. He further submitted that both the parties have settled their dispute before the Local Kebang and both the parties were asked to abide the following conditions:-

1. *That after the settlement of this local kebang, both the parties will not arise the same consequences or provoke the same case in near future.*
2. *that if any parties from both is/will arise same consequences in future, a penalty of Rs.5,00,000/-(Five lakhs) only will be imposed/pay by the parties.*
3. *That the accused party has compensated all medical expenses for medical relief/treatment of victim health.*
4. *that both parties will maintain all possible tranquility/peace and harmony within both the parties/communities.*
5. *That the victim party will bear and assist all possible help till revocation of suspension order of accused Govt. service.*

In the said settlement, both the parties agreed to compromise the matter and agreed to maintain tranquility/peace and harmony among themselves and communities. Thus, with above observation, he prayed to set aside the criminal proceeding in order to prevent the abuse of the process of Court.

10. After hearing the submissions made by both the parties and upon perusal of the case record it is seen that the case has been charge-sheeted against the accused/petitioner No.1, under Section 326 of the IPC. It is also submitted by the learned Additional Public Prosecutor that the injury sustained by the victim is grievous in nature. Though, the matter had been settled amicably, it is the fact that the petition for quashing of the case was filed subsequently, after framing of the charge-sheet, but, it cannot be denied that the settlement was held within one month from the date of the filing of the FIR. In the same time, it is also seen that the informant and victim had authorized the accused/petitioner No.1 to file the petition under Section 482 of the Code of Criminal Procedure, 1973 of the Cr.P.C. for quashing of the criminal Proceeding against him stating that they have no objections, if the criminal proceeding is quashed.

11. Further, in view of the criminal justice system as well as the various Hon'ble High Court expressed the view that, if any alleged issues are not survive due to change of situation and if the cause of action of the issues sufficiently discussed and meted out by the proper from of law, in that case, the law implementing authority need not required continuing the proceedings and such allegations can be treated as infructuous one having no cause of action.

12. So considering the compromise between the parties and also considering the fact that the petitioners have jointly prayed for quashing and setting aside of this case, the petition may be considered.

13. It is also the duty of this Court to see as to whether the further proceeding of this case will be abuse of the process law or there is any chance of conviction

of the present accused/petitioner No.1. The victim/petitioner No.3 is also not at all willing to proceed with this case and thus, it is an admitted fact that the parties have entered into amicable settlement and thus, chance of conviction is remote, even, if the proceeding is continued.

14. After hearing the submission made by the learned Advocated of both sides and also after perusing the case records, which has already been received, it is seen that the parties have compromised their dispute by conducting local kebang and in pursuant to the settlement, the parties/petitioners deposed before the Court that they are not willing to proceed with this case further.

15. Thus it is seen, that the parties have settled their matter amicably. In this context, 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**, can be relied on wherein, in para 13 thereof, it has been held as under:

“13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held 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.

16. So considering the view of the decision made by the Hon'ble Apex Court in the case of Laxmi Narayan (*Supra*) and also considering the fact that the matter is settled amicably between the parties, I am of the view that it is a fit case where the provision under Section 482 Cr.P.C. can be invoked.

17. Accordingly, the FIR dated 09.01.2018 in connection with Koloriang P.S. Case No.01/2018, registered under Sections 326 of the IPC, and charge-sheet No.17/2021 dated 17.04.2021, pending before the Court of learned Judicial Magistrate, 1st Class, Koloriang, stands set aside and quashed.

18. With above observations, this Criminal petition stands dispose of.

19. Send down the LCR to the learned Trial Court.

JUDGE

Comparing Assistant