

GAHC040003472023



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

Case No. : Crl.Petn. 106/2022

Nabam Pario and Anr.

Age: 42

Occupation :

Address:S/o Lt. Nabam Tadik

Resident of Kolma

Doimukh

PO and PS Doimukh

District Papum Pare

Arunachal Pradesh and Mobile No. 8729844049

2: Nabam Melum

Age: 38

Occupation :

Address:W/o Shri Nabam Pario

a Resident of Village Sood

PO Naharlagun and PS Pappu Hill

District Papum Pare

Arunachal Pradesh.

VERSUS

THE STATE OF AP and Anr.

Age: 0

Occupation :

Address:Represented through Public Prosecutor

2:The Officer in Charge

Age: 0

Occupation :

Address:Naharlagun Police Station
Station

District Papum Pare
Arunachal Pradesh.

Advocate for : Chorpok Modi
Advocate for : P P of AP appearing for THE STATE OF AP and Anr.: Advocate ,
appearing for 2, respectively.

BEFORE
HONBLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 19-07-2023

Heard Mr. N. Rama, the learned counsel for the petitioners No.1 and 2, who have jointly filed this application under Section 482 of the Cr.P.C praying for quashing the FIR dated 13.04.2017 registered as Naharlagun P.S. Case No. 45/2017 under Sections 419/468/471 IPC and the subsequent proceeding of the case and also quashing the Charge-Sheet No.113/2017.

2. The petitioners are spouses and they have jointly filed this petition as they have amicably settled their dispute. The petitioner has also appended the Deed of Agreement as Annexure-C series.

2. Heard Ms. L. Hage, the learned Additional Public Prosecutor for the State of Arunachal Pradesh.

3. The allegation against the petitioner No.1 was that he misappropriated an amount of Rs.4 Lakhs meant for the Abu-Ane

Multipurpose Co-operative Society Ltd. The informant was the chairman of the society. Both the petitioners had a family dispute and they were staying separately but now they have re-started their matrimonial life and they are staying together. And I.A (CrI) 16 (AP)/2023 was filed by the petitioner and Annexure-A appended to the I.A is the certificate by the Chairman and by the members of Abu-Ane Multipurpose Co-operative Society Ltd. certifying that the petitioner No.1 has returned Rs.4,49,000/-(Rupees Four Lakhs Forty Nine Thousand) to the society.

4. The learned counsel for the petitioner has submitted to quash the FIR as the FIR has become infructuous and allegation has become otiose. As all the members of the Society including the Chairman have no grievance against the petitioner probability of conviction appears to be remote and bleak.

5. I have also considered the Annexure-C series which is a Deed of Agreement executed between the petitioner No.1 as well as the Cooperative Society which clearly reveals the mode of settlement between the petitioner No.1 with the Cooperative Society. The petitioners have also relied on the decision of the Hon'ble Supreme Court in the case of Vinod Dua Vs. Union of India & Ors. in Writ Petition (Criminal) No.54 of 2020 decided on 03.06.2021, wherein it has been observed that;

“38. In Rajesh Sharma⁷², there is introduction of a third agency which has nothing to do with the Code and that apart, the Committees have been empowered to suggest a report failing which no arrest can be made. The directions to settle a case after it is registered is not a correct expression of law. A criminal proceeding which is not compoundable can be quashed by the High Court under Section 482 CrPC. When settlement takes place, then both the parties can file a petition under Section 482 CrPC and the High Court, considering the bona fide of the petition, may quash the same. The power rests with the High Court. In this regard, we may reproduce a passage from a three-Judge Bench in Gian Singh v. State of Punjab⁷⁹, In the said case, it has been held that:

“61. ... Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of (1994) 4 SCC 260 (1997) 1 SCC 416 (2012) 10 SCC 303 Writ Petition (Criminal) No.154 of 2020 Vinod Dua vs. Union of India & Ors.

the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special

statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim."

6. Reverting back to this case, it is also held that petitioners were embroiled in a financial dispute. The money allegedly misappropriated by the petitioner No.1 has been returned back to the Society. I would also like to reiterate that probability of conviction appears to be remote and bleak. Further proceeding will indeed be an abuse of the process of the Court.

7. In view of the foregoing discussions, the petition is allowed. The FIR dated 13.04.2017 registered as Naharlagun P.S. Case No. 45/2017, the Charge-Sheet No.113/2017 and the further proceedings

against the petitioner No.1 are quashed and set aside.

Accordingly, the criminal Petition is disposed of.

JUDGE

Comparing Assistant