

GAHC040013912022



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

Case No. : Crl.Petn./122/2022

Sujit Rai and Anr.
S/o Shri Muktar Rai,
A Permanent Resident of Baluapar, PO Khodaibag, PS Kharia,
District Sarang (Bihar)
Present Address
Village Aamtum, PO/PS Aalo, District West Sang, Arunachal Pradesh.
Mobile No. 8132815034 2: Sangeeta Kissan
Age:
Occupation

VERSUS

THE STATE OF AP
Represented through Public Prosecutor, Gauhati High Court, Itanagar (P) Bench,
Naharlagun/Yupia, Arunachal Pradesh.

For the petitioners	:Mr. Tabit Tapak
For the respondent	: Ms. T. Jini (Addl. P.P)
Date of hearing	: 14.11.2023
Date of order	: 14.11.2023

BEFORE
HONBLE MR. JUSTICE KARDAK ETE
JUDGMENT & ORDER

Heard Mr. T. Tapak, learned counsel for the petitioners. Also heard Ms. T. Jini, learned Additional Public Prosecutor for the State of Arunachal Pradesh.

2. This is an application filed jointly by the petitioners under Section 482 of the Code of Criminal Procedure, 1973 praying for quashing of criminal proceedings in in GR Case No. 36/2021 (arises out of Aalo P.S. Case No. 15/2021) under sections 354A/506 IPC, 1860, *read with* section 66-E of the IT Act against the petitioner no. 1 pending before the Court of learned Chief Judicial Magistrate, West Siang District, Aalo on the basis of a settlement dated 14.09.2022.

3. The petitioner no. 1 is the accused and the petitioner no. 2, is the complainant/victim.

4. The brief fact of the case is that on 09.04.2021, the petitioner no. 2 has filed a complaint/FIR against the petitioner no. 1, alleging that the petitioner no. 1 had captured some obscene videos and pictures of the petitioner no. 2 without her consent and based on that the petitioner no. 1 has been threatening and blackmailing her for having physical relationship with him. It was also alleged that on 09.04.2021, at around 1500 hours, the petitioner no. 1 had attempted to abduct her forcefully by causing hurt and forcefully dragged her on the road from her place of accommodation located at Sipu Puyi near NEFTU. Thereafter, FIR was registered being Aalo P.S. Case No. 15/2021 under Sections 341/354/354A/323/506 of IPC, 1860, *read with*

section 66-E of the IT Act. After completion of the investigation, a Charge-sheet has been filed against the petitioner no. 1 under Sections 341/354/354A/323/506 IPC, 1860 *read with* Section 66-E of the IT Act.

5. The Trial Court framed the charges under Sections 354A/506 IPC, 1860 *read with* Section 66-E of the IT Act against the petitioner no. 1 by dropping the others sections.

6. In the meantime, the petitioner no. 1 and the petitioner no. 2 have compromised and settled the case mutually by executing a compromise deed dated 14.09.2022 before the Executive Magistrate, West Siang District, Aalo, on the intervention of the family members and the well-wishers.

7. Mr. T. Tapak, learned counsel for the petitioners has submitted that the present application has been filed for quashing of the criminal proceedings pending before the Court of learned Chief Judicial Magistrate, West Siang District, Aalo in GR Case No. 36/2021. He submits that the parties were having a love affair with each other, thereafter; there arose a certain misunderstanding between the petitioner no. 1 and the petitioner no. 2, due to which the present case has been registered and accordingly, the charges have been framed. He further submits that the parties have entered into a settlement and have decided to maintain cordial relationship and to move on in their respective lives. Therefore, the criminal proceedings in GR Case No. 36/2021 may be quashed.

8. Ms. T. Jini, learned Additional Public Prosecutor submits that vide the Order dated 17.01.2023, this Court has directed the petitioner no. 2, the complainant/victim to file an affidavit stating that whether she has any objection if the criminal proceeding against the petitioner no. 1 is quashed.

Accordingly, the petitioner no. 2 has filed an affidavit stating that she has entered with a compromise agreement and she has no objection if the criminal proceeding against the petitioner no. 1 is quashed. In the above circumstances Ms. Jini, learned Additional Public Prosecutor, fairly submits that since the petitioner no. 1, the accused and the petitioner no. 2, the informant/victim have entered into a compromise deed by settling the matter between them, this Court may pass an appropriate order as deem fit, in accordance with law.

9. I have considered the submissions advanced by the learned counsel for the parties and also perused the materials placed on record.

10. The principle of law relating to quashing of criminal proceedings while exercising power under section 482 of the Code of Criminal Procedure, 1973 has been enunciated by the Hon'ble Apex Court in the case of *State of Madhya Pradesh Versus Laxmi Narayan and Others*, reported in (2019) 5 SCC 688, which is reproduced herein below:-

“15. 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:

15.1. 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;

15.2. 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;

15.3. 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;

15.4. 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;

15.5. 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.”

11. Having considered the submissions of the learned counsels appearing for the parties and on perusal of the materials available on record, this Court take note of the fact that the present petition has been filed jointly by the petitioners on the basis of a settlement deed, which has been entered into between the parties, voluntarily and without there being any coercion. It is also seen that the parties have decided to move on in their respective lives by maintaining cordial relationship by entering into the settlement deed dated 14.09.2022. This court is of the view that said settlement would result into harmony between the parties which may improve their mutual relationship. This Court is also of the view that continuance of GR case No. 36/2021 would be futile since the matter has been settled between the parties and the possibility of convictions seems bleak and remote.

12. Having considered the law enunciated by the Hon’ble Supreme Court and in the attending facts and circumstances of the present case, particularly, after considering the settlement deed dated 14.09.2022, I am of the considered view that this is one of the cases where the inherent power under Section 482 of the Cr.P.C. can be invoked.

13. In the light of above discussion, the criminal proceedings of GR Case No. 36/2021 under sections 354A/506 IPC, 1860 *read with* Section 66-E of the IT Act pending before the Court of learned Chief Judicial Magistrate, West Siang District, Aalo is hereby set aside and quashed.

14. In the result, the Criminal Petition is allowed and disposed of.

Case Diary be returned back.

JUDGE

Comparing Assistant