

GAHC040014882023



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

Case No. : Crl.Petn./200/2023

Basi Jilen and Anr.

S/o Yumba Jilen, Permanent resident of village Lumpo, PO/PS Nari, Lower Siang
District, Arunachal Pradesh. 2: Smti Meera Pasi Jilen

Age:

Occupation

VERSUS

THE STATE OF AP

represented through the Ld. Public Prosecutor

Advocate for the Petitioner : Lukter Jilen

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA
ORDER (ORAL)

07.11.2023

Heard Mr. I. Bam, learned counsel for the petitioners. Also heard Ms. T. Jini, learned Additional Public Prosecutor for the State respondent.

2. This is an application under Section 482 of the Code of Criminal Procedure, 1973, praying for quashing the F.I.R. of Likabali P.S. Case No. 24/2022, registered under Sections 498(A)/326 of the Indian Penal Code, and the Charge-Sheet No. 31/2022, dated 28.10.2022, as well as the corresponding G. R. No. 174/2022, which is pending trial at the stage of consideration of Charges before the Court of learned Chief Judicial Magistrate, Pasighat, District East Siang, Arunachal Pradesh.

3. The brief facts of the case is that both the complainant and the accused person are the husband and wife and they have 2 (two) children out of their wedlock. However, on 29.09.2022, due to some misunderstanding and minor dispute between both the husband and wife for extramarital affairs of the husband, the petitioner No. 2, i.e. the complainant/wife, lodged a complaint before the Likabali Police Station against the petitioner No. 1 (accused/husband) alleging *inter alia* that the accused has caused physical and mental torture to

the complainant. Accordingly, the Officer-In-Charge, Likabali Police Station, registered a case vide F.I.R. No. 24/2022, under Sections 498(A)/326 of the Indian Penal Code.

4. After completion of investigation, the Investigating Officer filed the Charge-Sheet against the petitioner No. 1, vide Charge-Sheet No. 31/2022, under Sections 498(A)/326 of the Indian Penal Code. But, subsequently, during the pendency of investigation, on the intervention and mediation of the family members and relatives of both the parties, the petitioner Nos. 1 & 2 have arrived at an amicable settlement by executing a mutual deed of agreement on 20.06.2023 and they are living peacefully as husband and wife along with their 2 (two) minor children.

5. Mr. I. Bam, learned counsel for the petitioners, submits that due to some misunderstanding for suspicion of extramarital affairs of the petitioner No. 1/husband, the petitioner No. 2/wife lodged a complaint against him. But, subsequently, with the intervention of their family members, they have mutually settled their dispute and are living peacefully as husband and wife. Further it is submitted that since the matter has already been amicably settled between the parties, there is no probability of any conviction of the accused petitioner No. 1 even if the proceeding is allowed to be continued, rather it will be an abuse of the process of the Court. Further it is submitted that there are catena of judgments of Hon'ble Supreme Court wherein it is held that the inherent power is of wide plentitude with no statutory limitation, however it has to be exercised

in accordance with some guidelines, specially where there is bleak chance of conviction and also to prevent the abuse of process of the Court as well as to secure the ends of justice. Thus, it is submitted that it is a fit case where the power under Section 482 Cr.P.C. can be invoked for quashing and setting aside the criminal proceeding as well as the F.I.R. and the Charge-Sheet.

6. The learned Additional Public Prosecutor, Ms. T. Jini, has submitted in this regard that as the case is of family dispute and both the petitioner Nos. 1 & 2 are the husband and wife, respectively, and are living peacefully without any differences and grievances against each other, the prosecution has no objection if the F.I.R., Charge-Sheet as well as the criminal proceeding is quashed invoking the power under Section 482 Cr.P.C.

7. After hearing the submissions made by the learned counsels for both sides and also considering the fact that both the petitioners are husband and wife and are living peacefully with their 2 (two) minor children after their amicable settlement, I find that the probability of conviction is remote even if the proceeding is allowed to be continued as it cannot be expected from the wife to depose against her husband when she is living peacefully with her husband along with their 2 (two) children.

8. In view of above, this Court is of the view that this is fit case where the extra-ordinary power under Section 482 of the Code of Criminal Procedure can

be invoked to quash the proceeding pending before the Court of learned Chief Judicial Magistrate, Pasighat. Accordingly, the petition stands allowed. The F.I.R. of Likabali P.S. Case No. 24/2022, registered under Sections 498(A)/326 of the Indian Penal Code, and the Charge-Sheet No. 31/2022, dated 28.10.2022, as well as the criminal proceeding in G. R. No. 174/2022, pending before the Court of learned Chief Judicial Magistrate, Pasighat, stands set aside and quashed.

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

JUDGE

Comparing Assistant