



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

Case No. : Crl.Petn./216/2023

- 1. Shri Teshi Peter**, S/o Lt. Teshi Talom,
R/o-Yupia, P.O/P.S-Doimukh,
District Papumpare, Arunachal Pradesh.

- 2. Smti Tana Onira Teshi**, W/o Shri. Teshi Peter,
R/o-Yupia, P.O/P.S-Doimukh,
District Papumpare, Arunachal Pradesh.

.....***Petitioners.***

-Versus-

- 1. The State of Arunachal Pradesh** represented by Public
Prosecutor.

.....***Respondent.***

Advocates

For the petitioners	: Mr. N. Rama.
For the respondent	: Mr. G. Tado, Addl. P.P.
Date of hearing	: 23.11.2023
Date of order	: 30.11.2023

:::BEFORE:::

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

JUDGMENT & ORDER (CAV)

Heard Mr. N. Rama, learned counsel for the petitioners. Also heard Mr. G. Tado, learned Additional Public Prosecutor for the State.

2. The petitioners, who are husband and wife, have jointly instituted the present proceedings praying for quashing of the FIR, dated 29.07.2021 lodged by the petitioner no. 2 against the petitioner no. 1, leading to registration of Women Police Station, Itanagar P.S. Case No. 102/2021, under Section 498(A) of the IPC along with the Charge-sheet being Charge-sheet No. 41/2023, dated 20.05.2023 submitted by the Police in G. R. Case No. 697/2021.

3. The admitted facts as revealed from the materials available on record is that the petitioner no. 2 (wife) lodged an FIR on 29.07.2021 against the petitioner no. 1 (husband) alleging therein of she being subjected to torture and other mental harassment. On receipt of the said FIR, the Police registered the case being Women Police Station, Itanagar P.S. Case No. 102/2021, under Section 498(A) of the IPC and investigated into the same. On conclusion of the investigation a Charge-sheet being No. 41/2023, dated 20.05.2023 came to be filed against the petitioner no. 1. On 27.09.2023, the learned Chief Judicial

Magistrate, Capital Complex at Yupia, framed charge under Section 498(A) IPC against the petitioner no. 1 and the said proceeding is currently pending disposal. During the pendency of the said criminal proceedings, the petitioner no. 2 and the petitioner no. 1 held discussions and on resolving their disputes, executed a Settlement Deed on 07.08.2021 and further resolving to continue to co-habit as husband and wife in a peaceful manner. In terms of the said settlement deed, the petitioner no. 1 approached the learned Trial Court praying for his discharge from the criminal proceedings in view of the settlement arrived at between him and the petitioner no. 2, however, the Section involved not being a compoundable one, under Section 320 of the Cr.P.C., the Trial Court expressed its inability to accept the prayer of the petitioner no. 1 and accordingly, the present proceedings have been jointly instituted by the petitioner no. 1 & 2 praying for quashing of the criminal proceedings pending against the petitioner no. 1.

4. Mr. N. Rama, learned counsel for the petitioners has submitted that the petitioners on account of certain misunderstandings developing matrimonial disputes arose between them, but, however, the disputes were peacefully settled between the petitioners as per local custom and tradition and they were both living together as husband and wife under one roof along with their children. The settlement of dispute between the petitioners was reduced in writing in the form of a settlement agreement, dated 07.08.2021, signed voluntarily by both the petitioners in the presence of persons of the locality. Accordingly, he prays that in view of the settlement so arrived at, the criminal proceedings pending against the petitioner no. 1 is required to be quashed by this Court in exercising its power conferred under Section 482 of the Cr.P.C.

5. Mr. G. Tado, learned Addl. Public Prosecutor, while not objecting to the prayer made on behalf of the petitioners had raised an apprehension as to whether on account of the different signatures available on record of the petitioner no. 2, it was actually the petitioner no. 2 who had signed on the

settlement agreement, dated 07.08.2021 and had required the Court to examine the matter before proceeding to dispose of the case.

6. I have considered the submissions advanced by the parties and also considered the materials available on record.

7. At the outset, it is to be stated that during the hearing of the matter held on 23.11.2023 on an apprehension raised by the learned Addl. P.P., the counsel for the petitioners, Mr. N. Rama had undertaken to produce both the petitioners before the Court. Accordingly, both the petitioners appeared before the Court and the petitioner no. 2 during the interaction held had categorically stated that she had signed on the Settlement Deed, dated 07.08.2023 and also that the same was sworn voluntarily and without any coercion. On being satisfied about the bonafide of the said agreement after interaction with the petitioners and as agreed to by the counsels for the parties, the hearing was held and on conclusion of the arguments, the case was reserved for judgment on 23.11.2023.

8. The issue arising in the present proceedings is as to whether this Court has the power, under Section 482 of the Cr.P.C. to quash criminal proceedings involving non-compoundable offences in view of the compromise arrived at between parties. The said issue, more particularly, with regard to matrimonial dispute/offences was considered by the Hon'ble Supreme Court in the case of **B. S. Joshi and Others Vs. State of Haryana & Another** reported in [(2003) 4 SCC 675] and the Hon'ble Apex Court categorically held that the high court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code. Exercise of such power would depend upon the facts and circumstances of each case, but with the sole purpose to prevent abuse of the process of any Court or otherwise to secure the ends of justice. It was further held that it is well settled that these powers have no limit, of course, where there is more power; it becomes necessary to exercise

utmost care and caution while exercising such powers. Having held so, the Hon'ble Apex Court observed and concluded as follows:-

“12. The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.

13. The observations made by this Court, though in a slightly different context, in [G.V. Rao v. L.H.V. Prasad & Ors.](#) [(2000) 3 SCC 693] are very apt for determining the approach required to be kept in view in matrimonial dispute by the courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counseled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts.

14. There is no doubt that the object of introducing Chapter XX-A containing [Section 498A](#) in [the Indian Penal Code](#) was to prevent the torture to a woman by her husband or by relatives of her husband. [Section 498A](#) was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object [of Chapter XXA of Indian Penal Code](#).

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and [Section 320](#) of the Code does not limit or affect the powers under [Section 482](#) of the Code.”

9. The decision rendered by the Hon'ble Apex Court in the case of **B. S.**

Joshi (supra) came to be doubted when the Special Leave Petition in **Gian Singh V. State of Punjab** came up for hearing before a two Judges Bench of the Hon'ble Apex Court and accordingly the matter was referred to a larger bench. The larger bench of the Hon'ble Supreme Court in its decision in the case of **Gian Singh V. State of Punjab and Anr.**, Reported in **(2012) 10 SCC 303** has held that the case of **B. S. Joshi (supra)** was correctly decided by concluding as follows:-

“58. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crime- doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under [IPC](#) or offences of moral turpitude under special statutes, like [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.

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61. *The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under [Section 320](#) of the Code. 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 the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and 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 serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like [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 pre-dominantly civil flavour stand on 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, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put 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. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."*

10. Having considered the law laid down by the Hon'ble Apex Court in the context of the power of this Court to quash proceedings involving non-compoundable Sections in exercise of its power under Section 482 Cr.P.C., the issue arising in the present proceeding is hereby considered.

11. It is a settled law that the offences which are non-compoundable cannot be compounded by a criminal Court in purported exercise of its powers conferred under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C., which is the exclusive domain of legislature. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C for quashing of proceedings or FIR or complaint in an appropriate case. This Court, keeping in view of the particular facts and circumstances of the case and for justifiable reasons can invoke the provisions of Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

12. This Court, therefore, having regard to the nature of offence and the fact that the parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its power under Section 482 Cr.P.C., even if the offences are non-compoundable.

13. This Court, can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if it goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system. Criminal proceedings involving non-heinous offences or where the

offences are pre-dominantly of a private nature can be annulled irrespective of the stage the criminal proceedings are at.

14. Having noticed the powers available to this Court, under the provisions of Section 482 of the Code, and weighing upon the peculiar facts and circumstances involved in the present proceedings, I am inclined to invoke the inherent powers of this Court, under Section 482 Cr.P.C., and quash the criminal proceedings existing against the petitioner no. 1 for the following reasons:-

(1) *Firstly*, the occurrence(s) involved in the present proceedings can be categorized as purely personal or having overtones of criminal proceedings of private nature.

(2) *Secondly*, the nature of injuries incurred, by the petitioner no. 2 on account of assault by the petitioner no. 1, does not appear to exhibit mental depravity of the petitioner no. 1 or the commission of the said offence cannot be said to be of such a serious nature that quashing of which would override public interest.

(3) *Thirdly*, the parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their disputes and having done so, the parties themselves have stated before this Court that they have been happily living as husband and wife after the settlement of the disputes in terms of the Settlement Deed, dated 07.08.2021.

(4) *Lastly*, the cause of administration of criminal justice system would remain un-effected on acceptance of the amicable settlement between the parties; more so looking at their present age.

15. In view of the conclusion reached herein above, I in exercise of powers under Section 482 Cr.P.C. quash the criminal proceedings pending before the Court of Chief Judicial Magistrate, Capital Complex, Yupia against the

petitioner No.1. Consequently, the G. R. Case No. 697/2021 (arising out of Women Police Station, Itanagar Case No. 102/2021) stands quashed along with the FIR dated 29.07.2021.

16. The Criminal Revision Petition is accordingly allowed in terms of the above.

JUDGE

Comparing Assistant