

GAHC040017062023



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

Case No. : Crl.Petn./235/2023

Marken Ete and 3 Ors.

S/o Shri Pemer Ete, Village Paya, P.O/P.S Aalo, District West Siang

2: Tasem

Ruti Bam

Age:

Occupation :

3: Kumar Flago

Age:

Occupation :

4: Hage Mobbin

Age:

Occupation

VERSUS

THE STATE OF AP

represented by the Public Prosecutor, Arunachal Pradesh

Advocate for the Petitioner : C Ering

Advocate for the Respondent : P P of AP

**BEFORE
HONBLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 13.12.2023

Heard Mr. T. Taba, learned counsel for the petitioners. Also heard Mr. G. Tado, learned Addl. Public Prosecutor representing the State respondent.

2. In this petition, under Section under Section 482 of the Code of Criminal Procedure, 1973, 4 petitioners, 3 of whom are the accused, namely, 1) Mr. Marken Ete, 2) Shri Tasen Ruti Bam, 3) Shri Kumar Flago and the informant as well as victim, the petitioner no. 4., Shri Hage Mobbing, have prayed for quashing the First Information Report(FIR), the Charge-sheet and the criminal proceedings arising out of Pasighat Police Station Case No. 90/13, under Sections 186/332/353/34 of the Indian Penal Code, pending before the Court of learned Chief Judicial Magistrate, Pasighat. It is to be noted here that the above mentioned case has been registered on the basis of one FIR lodged by one Shri Hage Mobbing, the petitioner no. 4 of this petition on 23.08.2013, to the effect that a group of contractors, namely, Marken Ete, Tasen Ruti Bam and Kumar Flago have obstructed him from performing official duty and tried to destroy the official documents and assaulted the officer on duty in the office chamber of Executive Engineer, WRD (TW @ GW) Pasighat Division at around 1.55 hours on 22.08.2013.

3. The learned counsels for the petitioners submit that the case was registered in the year 2013 and Charge-sheet was submitted after completion of investigation on 30.12.2014. The learned Chief Judicial Magistrate, Pasighat, where the case is pending now, has not yet framed

charge against the present petitioners no. 1, 2 & 3 and that the petitioners and the informant as well as victim have arrived at a settlement and compounded the case and to that effect they have executed one settlement deed, dated 15.09.2023, and on the basis of the said settlement deed, the petitioners have approached this Court. The learned counsel for the petitioners further submits that the parties have resolved the entire dispute between themselves and agreed to terminate the 10 years old case, being Pasighat P.S. Case No. 90/13, corresponding to GR Case No. 90/13, under Sections 186/332/353/34 of the IPC and therefore, the learned counsel for the petitioners contended that the FIR, the Charge-sheet and the criminal proceedings pending before the Court of learned Chief Judicial Magistrate, Pasighat may be quashed.

4. Mr. G. Tado, learned Addl. Public Prosecutor submits that since the matter has been settled by the parties, the State has no objection in the event of allowing this petition.

5. Having heard the submission of learned counsels for both sides, I have gone through the petition and the documents placed on record.

6. The settlement deed, dated 15.09.2023, which is annexed with the petition as Annexure-2, reveals that the petitioners have mutually settled the mis-understanding with the intervention of their friends, relatives and well-wishers and they are maintaining cordial relationship between each other and they have also resolved to approach the appropriate Court for termination of 10 years old case being Pasighat P.S. Case No. 90/13 corresponding to GR Case No. 90/13, under Sections 186/332/353/34 of the IPC.

7. It also appears that the case was registered in the year 2013 and Charge-sheet was filed in the year 2014 and since then the same has been pending before the Court of learned CJM, pasighat, without the charge being framed till date, for which the petitioners are suffering a lot.

8. Since the parties have settled the entire dispute amicably and amongst themselves and no longer willing to pursue the case and since they have executed one settlement deed to that effect, this Court is of the view that ends of justice would be meted out if the petition is allowed.

9. Moreover, on account of settlement of the disputes, the informant as well as victim (petitioner No.4) is unlikely to depose against the petitioner No.1, 2 & 3 during trial. And on such count allowing continuing the proceeding against the petitioner No.1, 2 & 3 would be an abuse of the process of the Court.

10. In this connection, reference may be made to a decision of Hon'ble Supreme Court in ***Gian Singh Vs State of Punjab & Anr.***, reported in **2012 10 SCC 303**, wherein in Para No. 57, it has been held as under:-

“57. The position that emerges from the above discussion can be summarized 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-dominatingly 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."

11. Having regards to above and also considering the facts and circumstances in the record, this Court is inclined to allow this petition. Accordingly, the FIR, the Charge-sheet and the criminal proceedings arising out of Pasighat Police Station Case No. 90/13, under Sections

186/332/353/34 of the Indian Penal Code pending before the Court of learned Chief Judicial Magistrate, Pasighat, stands quashed.

12. In terms of above, the criminal petition stands disposed of at the motion stage itself.

JUDGE

Comparing Assistant