

GAHC010054822021



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

Case No. : Crl.Pet./213/2021

MANOJ KUMAR NATH AND 2 ORS
ASSISTANT TEACHER, P.R. GOVT. H.S. AND M.P. SCHOOL, GOALPARA, S/O
LATE RADHA KANTA NATH, R/O VILL-TILAPARA, P.O.-GOALPARA, P.S.-
GOALPARA, DIST-GOALPARA, ASSAM, PIN-783101

2: ANOWAR HUSSAIN
S/O LATE ABDUL GAFFER
R/O VILL-ALIPARA
P.O.-GOALPARA
P.S.-GOALPARA
DIST-GOALPARA
ASSAM
PIN-783101

3: BASUDEV SARKAR
S/O LATE HARIPADA SARKAR
R/O SANTI NAGAR
P.O.-GOALPARA
P.S.-GOALPARA
DIST-GOALPARA
ASSAM
PIN-78310

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:SMT. BHABANI BAISHYA (INFORMANT)
D/O SRI ARABINDA BAISHYA
R/O VILL-BAPUJI NAGAR
BALADMARI
P.O.-GOALPARA
P.S.-GOALPARA
DIST-GOALPARA, ASSAM

Advocate for the Petitioner : MR. A K AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN
ORDER

27.02.2023

Heard Mr. A.K. Ahmed, learned counsel for the petitioner. Also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, for respondent No.1 and Mr. M.K. Das, learned counsel for respondent No.2.

2. This petition under Section 482 Cr.PC is preferred by three petitioners, namely, Manoj Kumar Nath, Anowar Hussain and Basudev Laskar for quashing of the proceedings of GR Case No.2039/2016 pending in the Court of learned Chief Judicial Magistrate, Goalpara. It is to be noted here that GR Case No.2039/2016 has been registered on the basis of an FIR lodged by one Smt. Bhabani Baishya on 11.09.2016.

3. The background facts, leading to filing of the present petition, are briefly stated as under:-

On 11.09.2016, Smt. Bhabani Baishya, wife of the petitioner No.1, Shri Manoj Kumar Nath, lodged an FIR with the Officer-in-Charge, Dudhnoi Police Station to the effect that on that day, at about 4.30 pm, while she was coming out of Dudhnoi college, after attending examination, her husband, Manoj Kumar Nath, caught hold of her and dragged her into a private vehicle and tried to cause injury to her by means of a knife and when she raised alarm, he fell her down on the ground and pressed her neck and administered some blows on her backside. He also tried to kill her as one divorce case is going on between her and her husband and one case is also pending in the Social Welfare Department and another case in the Family Court. On the basis of the said information, Officer-in-Charge, Dudhnoi Police Station has registered Dudhnoi Police Station Case No.99/2016, under Sections 341/325/354(B)/34 IPC and entrusted S.I. Rajendra Talukdar to investigate the same.

4. The I.O. then investigated the case and on completion of investigation, laid charge-sheet being Charge-Sheet No.76/2016 dated 18.10.2016 against the present petitioners, to stand trial in the Court under Sections 341/323/354(B)/34 IPC. Upon the said charge-sheet, the learned Chief Judicial Magistrate, Goalpara has taken cognizance under Sections 354/323/341/34 IPC and issued process to the petitioners to appear before the Court and to stand trial. Accordingly, the petitioners appeared before the Court of learned Chief Judicial Magistrate, Goalpara and the learned Chief Judicial Magistrate, Goalpara, after hearing learned counsel for both sides, has framed charges under Sections 341/323/354/34 IPC, and on being read and explained over the charges, the accused-persons pleaded not guilty and claimed to be tried. The learned Court below, thereafter, examined as many as 6 witnesses in support of the case.

5. Thereafter, one of the petitioners, namely, Manoj Kumar Nath, who happened to be the husband of respondent No.2, Smti. Bhabani Baishya, entered into an agreement with respondent No.2 on 12.10.2020, and decided to settle all the disputes between themselves and no longer wanted to proceed with the present case. And on the basis of the said deed of agreement, the petitioners approached this Court by filing the present petition for quashing the GR Case No.2039/2016, pending in the Court of learned Chief Judicial Magistrate, Goalpara.

6. Mr. A.K. Ahmed, the learned counsel for the petitioners submits that the dispute is in between the husband and the wife and they have settled the dispute amicably between themselves and they are not willing to pursue the GR Case No.2039/2016 pending in the Court of Chief Judicial Magistrate, Goalpara and, therefore, it is contended to allow the petition by quashing the aforesaid GR Case. Mr. Ahmed further submits that the offence under Section 354 IPC is not compoundable and therefore the petitioners have approached this Court by filing the present petition.

7. On the other hand, Mr. M.K. Das, learned counsel for respondent No.2, submits that the matter has already been settled between the parties and they have executed a Deed of Agreement and are not willing to proceed with the GR Case No.2039/2016 and, as such, this petition may be disposed of by quashing the proceedings of GR Case No.2039/2016, pending in the Court of learned Chief Judicial Magistrate, Goalpara. Mr. Das further submits that the

respondent has also filed one affidavit in the Court to the effect that she has no objection in the event of quashing of the criminal proceeding.

8. Having heard the submission of learned counsel for both sides, I have carefully gone through the petition and the materials on record. I have also perused the deed of agreement dated 12.10.2020.

9. It appears from the said agreement that both the parties have decided to settle all the cases filed against each other, which are pending for adjudication before various Courts and especially the GR Case No.2039/2016 pending before the learned Chief Judicial Magistrate, Goalpara. It also appears from the record that respondent No.2 has filed an affidavit on 12.08.2022, stating that in view of the deed of agreement arrived at by her and her husband, she has no objection if this petitions is allowed by quashing the Dudhnoi PS Case No.99/2016, under Sections 341/325/354(B)/34 IPC, which was lodged by her.

10. It is to be noted here that while dealing with quashing of criminal proceeding on the basis of settlement, Hon'ble Supreme Court in the case of **State of Madhya Pradesh Vs. Laxmi Narayan**, reported in **(2019) 5 SCC 688**, referring to its two earlier decisions in the case of **Gyan Singh Vs. State of Punjab**, reported in **(2012) 10 SCC 303** and **Narinder Singh Vs. State of Punjab**, reported in **(2014) 6 SCC 466** held as under:-

(i) The power conferred under Section 482 Cr.PC, to quash criminal proceeding for non-compoundable offence under Section 320 of the Code, can be exercised having overwhelming and predominantly of civil flavor particularly those arising out of commercial transactions or arising out of matrimonial relationship or family dispute and when the parties have resolved the entire dispute among themselves. Further, the Hon'ble Supreme Court has held that when the parties have reached settlement and on that basis petition for quashing a criminal proceeding is filed, the guiding factor in such cases would be to secure – (i) the ends of justice and (ii) to prevent abuse of the process of any court and while exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

11. In the present case, it appears that the matter is between the husband and wife and arising out of matrimonial relationship. Further, it appears that parties have resolved the entire dispute among themselves and they are no longer willing to proceed with the case

pending before the learned Chief Judicial Magistrate, Goalpara. Since the matter has been settled between the parties, interest of justice would be meted out if this petition is allowed. Besides, further proceeding with the case, pending before the learned Court below, would be an abuse of the process of the Court as chances of conviction is remote and bleak and continuation of the proceeding will cause great oppression and prejudice to the parties.

12. Under the facts and circumstances, discussed above, this Court is of the view that the petition deserves to be allowed. Accordingly, the proceedings of GR Case No.2039/2016, pending before the Court of learned Chief Judicial Magistrate, Goalpara stand quashed.

13. The petition is disposed of in terms of above. The parties have to bear their own cost.

J U D G E

Comparing Assistant