

GAHC010055202022



THE GAUHATI HIGH COURT AT GUWAHATI
(The High Court of Assam, Nagaland, Mizoram and Arunachal Pradesh)

PRINCIPAL SEAT AT GUWAHATI

Criminal Petition No. 235 of 2022

1. RANJEET SINGH AND ANR.SON OF LATE SAR KRIPAL SINGH
R/O C-583/ 3RD FLOOR, VIKAS PURI, P.S. VIKAS PURI, P.O. VIKAS PURI,
NEW DELHI, DIST. WEST DELHI, PIN-110018

2: SRI SUMIT MARWAH
S/O MR. V K MARWAH
PRESENTLY ADDRESS- FLAT NO. 806
INDRAPRASTHA APARTMENTS
JAYANAGAR
GUWAHATI

.....Petitioners

VERSUS

1. THE STATE OF ASSAM AND ANR.
REPRESENTED. BY THE PP, ASSAM

2. SRI AMITAV CHAKRABORTY
S/O LATE ASHUTOSH CHAKRABORTY
R/O HOUSE NO. 9
GANDHINAGAR
SATGAON
GUWAHATI

P.S. SATGAON
P.O. UDAYAN VIHAR
DIST. KAMRUP (METRO)
ASSAM
PIN-781171

.....Respondents

Advocates for the petitioner : Mr T Deuri
Advocate for the respondent : Mr B Sarma, Addl. P.P.
Md S M Rahman, R-2.

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI

Date of Judgment : 09.05.2023

JUDGEMENT AND ORDER (ORAL)

Heard Mr T Deuri, learned counsel for the petitioner and Mr S M Rahman, learned counsel for the respondent No. 2. Also heard Mr B Sarma, learned Additional Public Prosecutor appearing on behalf of the State of Assam/respondent No. 1.

2. Both the petitioners have filed an application under Section 482 CrPC, seeking quashment of the First Information Report dated 06.12.2021, being registered as Dispur PS Case No. 4366/2021, under Sections 406/420/509 IPC.

3. Both the accused petitioners are serving with the Indus Towers Limited Company, located at Gurugram, Haryana. The opposite party No. 2, i.e., the informant was serving in the post of Circle Supply Head Chain Manager-NESA Circle Office of Indus Towers Limited. According to the accused petitioners, some inputs were received with respect to the involvement of opposite party No. 2/informant in certain irregularities/illegal practices, which

were not in line with the code of conduct applicable to all the employees of the company. The opposite party No. 2 was called upon on 23.11.2021 to discuss the inputs received against him, but he did not respond, however, sent an e-mail, stating that he was not feeling well and was going for medical check-up. Further, on the same day, the opposite party No. 2 had sent another e-mail, stating that he was applying for medical leave for 10 days.

4. On 10.12.2021, the accused petitioner No. 2 had sent an e-mail to respondent No. 1 to know about his whereabouts and he should share his coordinates. But no reply has been received from the respondent No. 2. Ultimately, on 17.12.2021, it was decided that due to the unwarranted conduct of the opposite party No. 2, the company has lost trust and confidence upon him and accordingly, a letter was issued for his termination.

5. It is further alleged that the opposite party No. 2 had filed a Title Suit, being Title Suit No. 421/2021, before the Court of learned Civil Judge No. 1, Kamrup, Guwhati, praying for permanent injunction, with a declaration that his termination vide order dated 17.12.2021 is void and illegal. Subsequently, the FIR was lodged against the present petitioners by the respondent No. 2, alleging that his official e-mail id and his g-mail-id were hacked and was mis-utilized fraudulently by the accused petitioners.

6. It is submitted by the learned counsel for the petitioners that the facts disclosed in the First Information Report dated 06.12.2021 do not *prima facie* make out the ingredients of offence under Sections 406/420/509 IPC. As such, the impugned FIR is liable to be set aside and quashed.

7. It is further submitted by the learned counsel for the petitioners that the matter has been settled between the parties and all the offences alleged against the accused petitioners

are compoundable in nature. Hence, the impugned FIR may be quashed accordingly.

8. On the other hand, learned counsel for the respondent No. 2 also submitted in the same tune by stating that respondent No. 2 is not interested to proceed further with the case. It is also stated that the matter has been compromised between the parties and the offence under Sections 406/420/509 IPC are compoundable in nature. The respondent No. 2 has no objection if the FIR is quashed.

7. However, Mr B Sarma, learned Additional Public Prosecutor has made no objection on the prayer of the parties.

8. I have considered the submissions made by the learned counsel for the parties. I have also perused the documents annexed with the record.

9. Learned counsel for the petitioners also contended that the matter has been amicably settled between the parties. In view of the allegations made in the FIR and the settlement arrived at between the parties as well as considering the provision of Section 320 CrPC, this Court may exercise inherent powers under Section 482 CrPC, to quash the impugned FIR.

10. The Hon'ble Supreme Court, in the case of ***Madhavrao Jiwajirao Scindia & Ors. – Vs- Sambhajirao Chandojirao Angre***, reported in **(1988) 1 SCC 69**, held that while exercising the inherent power of quashing under Section 482 CrPC, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice, to permit a prosecution to continue. Where in the opinion of the Court, the chances of ultimate conviction are bleak and therefore, no useful purpose is likely to be served, by allowing a criminal proceeding to continue, the Court may while taking into consideration of the special facts of the case, also quash the

proceeding even though it may be at a preliminary stage.

11. In the case of ***Nikhil Merchant v. Central Bureau of Investigation & Another;*** reported in (2008) 9 SCC 677, the Hon'ble Supreme Court quashed the criminal proceeding on the ground of compromise between the parties.

12. In another case titled ***Ramgopal & Other v. State of MP;*** reported in Criminal Appeal Nos. 1489 and 1488 of 2012 (MANU/SC/0728/2021), the Hon'ble Supreme court has held that –

“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 had managed with the complainant to enter into a compromise.

The High Court, therefore, having regard to the nature of offence and the fact that 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 inherent powers, under Section 482 CrPC, even if the offences are non-compoundable. The High 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 goes unpunished does not tinker with or paralyze the very object of the administration of criminal justice system.”

13. Therefore, from the judgments of the Apex Court, law is fairly settled now that this court under [Section 482](#) Cr.P.C. can quash the proceedings on the ground of compromise arrived at between both the parties.

14. The law is also well settled that if the dispute is private in nature and does not affect the public at large then even criminal proceedings for non-compoundable offences on the basis of compromise can be quashed by this Court while exercising the power under Section 482 Cr.P.C.

15. In the instant case, the offences as alleged, are compoundable in nature and the dispute between the parties appear to be private in nature, which arises out of misunderstanding between the parties and both the parties have subsequently settled their dispute.

16. In the result, petition is allowed. The FIR being Dispur PS Case No. 4366/2021, under Sections 406/420/509, is hereby quashed and set aside.

17. The Criminal Petition, accordingly, stands disposed of.

JUDGE

Comparing Assistant