

GAHC010079622023



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

Case No. : Crl.Pet./360/2023

THOUNAOJAM RONAL SINGH
S/O TH. IBOMCHA SINGH,
A RESIDENT OF THOUNAOJAM LAIMAYUM LEIKAI, P.O. KAKCHING, P.S.
WAIKHONG, KAKCHING DISTRICT, MANIPUR- 795103.

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:SONIA SANGMA
D/O MONTU MARAK

A RESIDENT OF LAMBAPATHAR VILLAGE

KHERONI CHARIALI
P.O. AND P.S. KHERONI
WEST KARBI ANGLONG
ASSAM-78241

Advocate for the Petitioner : MS. J GHOSH

Advocate for the Respondent : PP, ASSAM

BEFORE

HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

O R D E R

24.11.2023

1. Heard Ms. J. Nath, learned counsel for the petitioner as well as Mr. R. Tiwari, learned counsel for the respondent no. 2 and Mr. B. Sarma, learned Addl. P.P. for the respondent no. 1.
2. The petitioner has filed this application under Section 482 Cr.P.C. seeking quashing of the charge-sheet No. 116/2018 dated 31.12.2018 in connection with Kheroni P.S. No. 54 of 2018, registered under Section 419/420, R/w Section 66 D of the Information Technology Act, 2000 and also quashing of the criminal proceeding initiated against the present petitioner registered under PRC 19/2021.
3. The respondent no. 2 lodged a complaint against alleging inter-alia that the accused named in the FIR have called the informant over phone and induced her by promising to give her the following items:- six pairs of shoes, two gold jewellery, two gold wrist watches, four handbags, one iphone8, Macbook Air, eight pairs of garments, diamond ring, and in return they demanded Rs. 5,00,000/-and the complainant paid them Rs. 3,83,000/-. The complainant was lodged as the aforementioned items were not delivered to the complainant.
4. The instant case was registered and finally, the charge-sheet was laid against the present petitioner in connection with the alleged offence. The learned counsel for the respondent no. 2 has submitted an affidavit on behalf of the respondent no. 2 that the dispute between the respondent no. 2 and the present petitioner has already been resolved and the respondent no. 2 has no objection if the charge-sheet and the proceeding against the present petitioner

is quash and set aside.

5. I have considered the submissions at the Bar that the petitioner has paid back Rs. 3,85,000/- to the complainant and both the parties have resolved their disputes.

6. It is also submitted that the Bar that both the parties settled their disputes amicably and the Annexure-A of the petition is the deed of compromise executed jointly by the petitioner and the complainant-respondent no. 2 herein.

7. I have scrutinized the deed of compromise. I have also relied on the decision of the Hon'ble Supreme Court in ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur And Ors. Vs State of Gujarat and Ors.*** in connection with Criminal Appeal No. 1723/2017, wherein, it has been observed that:-

“Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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 predominatingly civil flavour stand on a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.” 11 In Narinder Singh (supra), Dr Justice A K Sikri, speaking for a bench of two learned Judges of this Court observed that in respect of offences against society, it is the duty of the state to punish the offender. In consequence, deterrence provides a rationale for punishing the offender. Hence, even when there is a settlement, the view of the offender and victim will not prevail since it is in the interest of society that the offender should be punished to deter others from committing a similar crime. On the other hand, there may be offences falling in the category where the correctional objective of criminal law would have to be given more weightage than the theory of deterrence. In such a case, the court may be of the opinion that a settlement between the parties would lead to better relations between them and would resolve a festering private dispute. The court observed that the timing of a settlement is of significance in determining whether the jurisdiction under Section 482 should be exercised:”

8. As both the parties have amicably settled their dispute, possibility of conviction appears to be remote and bleak. This case is related to monetary dispute between both the parties. Further proceeding will indeed be an abuse of the process of the Court, I deem it proper to invoke the inherent jurisdiction under Section 482 Cr.P.C.

9. In the wake of my foregoing discussions, petition is allowed. The proceeding of PRC Case No. 19/2021 and the Charge-sheet No. 116/2018 dated 13.12.2018 is hereby set aside and quashed.

JUDGE

Comparing Assistant