

GAHC010097552023



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

Case No. : Crl.Pet./433/2023

SHAHANAS KHATUN @ SAHANAJ BEGUM AND ANR
W/O KADER MOLLAH @ KADER MIA
VILL- BAHMURA
P.O. SONKUCHI
P.S. AND DIST. BARPETA, ASSAM
PIN-781314

2: FARIDA BEGUM
D/O ABDUL BARIK BHUYAN
VILL- MAHTOLI BAZAR
P.O. MAHTOLI
P.S. BOKO
DIST. KAMRUP
ASSAM
PIN-78113

VERSUS

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

2:NURJAHAN KHATUN
W/O SHAHJAHAN ALI
VILL- GOREMARI PATHAR
P.O. GOREMARI
P.S. AND DIST. BARPETA
ASSAM
PIN-78130

Advocate for the Petitioner : MR. A MOBARAQUE

Advocate for the Respondent : PP, ASSAM

BEFORE

HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 26-07-2023

1. Heard Mr. A. Mobaraque, learned counsel for the petitioners, namely [1] Shahanas Khatun @ Sahanaj Begum. Also heard Ms. A. Begum, learned Addl. P.P. for the State Respondent No. 1 and Mr. A. Hussain, learned counsel for respondent No. 2 Ms. Nurjahan Khatun.

2. The petitioners have filed this petition u/s 482 Cr.P.C. with prayer for quashing the Charge Sheet No. 1080/2020 dated 31.10.2020 and subsequent criminal proceeding of PRC Case No. 473/2021 u/s 120(B)/420/406/468/34 IPC pending before the Court of learned Additional Chief Judicial Magistrate, Barpeta arising out of Barpeta P.S. Case No. 1390/2014 u/s 120(B)/420/406/468/34 IPC.

3. The FIR was filed by the respondent No. 2 against both the petitioners alleging that the petitioners have misappropriated funds of the Milanjyoti Atma Sahayak Gote. Charge Sheet was laid against the petitioners and at the stage of appearance the petitioners have preferred this petition with prayer of quashing the proceeding as mentioned above. The respondent No. 2 has also filed an affidavit-in-opposition stating that both the parties have amicably settled their dispute outside the Court and the parties have buried their hatchet. The affidavit marked as Annexur-5 reveals that the respondent No. 2 lodged the complaint against the petitioners on misunderstanding.

4. It has been held by Hon'ble Supreme Court in *Narinder Singh and Others v. State of Punjab and Another*, reported in (2014) 6 SCC 466 that:-

“Thereafter, the Court summed up the legal position in the following words:

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 guidelines 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 FIR may be exercised where the offender and the 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 a serious impact on society. 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 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."

5. Reverting back to this case it is held that this case has arisen out of financial dispute between the parties. As the parties have settled their dispute amicably, possibility of conviction seems to be remote and bleak. Further proceeding will be an abuse of the process of the Court.

6. In view of my foregoing discussions, the Charge Sheet No. 1080/2020 dated 31.10.2020 and subsequent criminal proceeding being PRC Case No. 473/2021 is hereby set aside and quashed.

In terms of the above observations, petition is disposed of.

JUDGE

Comparing Assistant