

GAHC010183582022



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

Case No. : Crl.Pet./923/2022

SANDEEP TEKRIWAL AND ANR.
S/O LT. GAURI SANKAR TEKRIWAL, R/O BG 14 SECTOR II SALT LAKE CITY
KOLKATA P.S. BIDHAN NAGAR DIST. NORTH 24 PARGANAS WEST
BENGAL

2: SANJOY TEKRIWAL
S/O LT. GAURI SANKAR TEKRIWAL
R/O BG 14 SECTOR II SALT LAKE CITY KOLKATA P.S. BIDHAN NAGAR
DIST. NORTH 24 PARGANAS WEST BENGAL

VERSUS

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

2:PRAMOD KESHAN
S/O LT. CHANDI PRASAD KESHAN
R/O HOUSE NO. 38 BORTHAKUR MILL ROAD
ULUBARI GUWAHATI-781007 PO. ULUBARI
P.S PALTAN BAZAR
DIST. KAMRUP (M) ASSA

Advocate for the Petitioner : MR. B D DEKA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 10-04-2023

Heard Mr. M.P. Choudhury, learned counsel for the petitioners, 1. Sandeep Tekriwal and 2. Sri Sanjoy Tekriwal. Also heard Mr. D Das, learned Addl. PP, appearing for the respondent No.1 and Mr. M Sahewalla, learned counsel for respondent No.2.

2. The petitioners along with the accused named in the FIR entered into an agreement with the informant and thereafter, the petitioners business started to run from June 2016. However, the informant started facing problems as the other accused named in the FIR together with the sales team started making false and fraudulent commitments with the dealers, retailers causing huge financial loss to the informant, but the sales team carried on collecting cash from the dealers as well as the retailers in violation of the agreement at the behest of the petitioners and other accused mentioned in the FIR and the same was misappropriated. The petitioners started functioning beyond the realm of the agreement by appointing other agencies. It is alleged that the accused named in the FIR in a pre planned manner cheated the informant.

3. The petitioners filed this application under section 482 Cr.P.C., read with Article 227 of the Constitution of India for quashing the entire proceeding including the order of cognizance dated 30.04.2019 taken against the petitioners. At present both the petitioners Sandeep Tekriwal and Sanjoy Tekriwal have filed a joint petition with the

respondent No.2, who is the informant of the FIR No.58/2018. Both the petitioners and the respondents have mutually agreed to settle their dispute through a joint affidavit dated 28.03.2023. The respondent No.2 has no objection if the entire proceedings against both the petitioners is quashed and set aside.

4. It has been held by the Hon'ble Supreme Court in the case of ***Gian Singh Vs. State of Punjab and Another*** reported in **(2012) 10 SCC 303** as follows:

61. The position that emerges from the above discussion can be summarised 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.

5. In the instant case, it is clear that this proceeding is predominantly private in nature arising out of a civil dispute regarding a contract. Possibility of conviction appears to be remote and bleak and further proceeding will indeed be an abuse of the process of the Court.

6. In view of my foregoing discussions, the Charge Sheet No.70/2018 and the entire proceeding in PRC Case No.1011/2019, GR Case No.3784/2018 and the order of cognizance dated 30.04.2019

relating to the present petitioners is hereby quashed and set aside

7. In terms of the above, the instant petition stands disposed of.

JUDGE

Comparing Assistant