

GAHC010220962023



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

Case No. : Crl.Pet./1068/2023

PRATIK AGARWAL AND 2 ORS.
S/O AMAR KUMAR AGARWAL
R/O BUILDING NO. 344, FLAT NO 10031004, KALPATARU SRISHTI
COMPLEX,
NEAR NURYA SHOPPING CENTRE,
MIRA BHAYENDER
MIRA ROAD EAST, THANE MAHARASHTRA-401107

2: AMAR KUMAR AGARWAL
R/O BUILDING NO. 344
FLAT NO 10031004
KALPATARU SRISHTI COMPLEX

NEAR NURYA SHOPPING CENTRE

MIRA BHAYENDER
MIRA ROAD EAST
THANE MAHARASHTRA-401107

3: SAVITA AMAR AGARWAL
W/O AMAR KUMAR AGARWAL
R/O BUILDING NO. 344
FLAT NO 10031004
KALPATARU SRISHTI COMPLEX

NEAR NURYA SHOPPING CENTRE

MIRA BHAYENDER
MIRA ROAD EAST
THANE MAHARASHTRA-40110

VERSUS

THE STATE OF ASSAM AND ANR

REP. BY THE PP, ASSAM

2:ANURADHA AGARWAL
D/O RAMAVATAR LAHOTY
R/O OLD BALIBAT
P.O. AND P.S. JORHAT
DIST. JORHAT
ASSAM
PIN NO. 78500

Advocate for the Petitioner : MR. S KASHYAP

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 22.11.2023

Heard Mr. S. Kashyap, learned counsel for the petitioners. Also heard Ms. S. Jahan, learned Additional Public Prosecutor appearing for the respondent No.1 as well as Mr. D. Goswami, learned counsel for the respondent No. 2.

This application under section 482 of the Code of Criminal Procedure 1973, has been filed for quashing the FIR dated 23.11. 2021, which was lodged by the respondent no.2 against the petitioners before Jorhat Police Station and on the basis of which, Jorhat P. S. Case No. 2577/2021 under Section 498A of the Indian Penal Code was registered.

The brief facts for consideration of the instant criminal petitions are that the petitioner no.1 and the respondent no. 2 were married to each other on 04.12.2017 at Mumbai, and thereafter they stayed together in Mumbai for some time and after about two years of their stay together at Mumbai, the respondent No. 2 came back to her maternal home at Jorhat on 14.02.2020 and thereafter,

she did not return back to the petitioner no.1.

When the petitioner no.1 contacted, the respondent No.2 on several occasions, she refused to return back, putting certain conditions for her return and thereafter, several attempts were made to settle the matrimonial dispute between the parties. However, the respondent No. 2 on 23.11.2021 lodged an FIR against the petitioner No.1 and other two petitioners, who are the parents of the petitioner No.1, alleging that she has been subject to torture for demand of dowry.

However, after lodging of the FIR, both the parties entered into a settlement between them and decided to end their all personal dispute and settle the matter amicably and to that effect, a deed of settlement was also entered into by the respondent No.2 and the present petitioners on 03.08.2023. It was also stipulated in the said deed, that the present petitioners would file a quashing petition before the High Court for quashing of the FIR No. 2577/2021 and the first party to the said deed i.e., the respondent no.2 would have no objection to the said quashing.

It is submitted by learned counsel for both sides that the present criminal petition has been filed by the petitioners in pursuant to the deed of compromise.

Learned counsel for the petitioners, as well as respondent, have submitted that as the both the parties have agreed to settle their dispute amicably.

Learned counsel for both the parties have submitted that apart from the instant FIR which is sought to be quashed in the present criminal petition, there are other pending litigations between both the parties, which were filed by both the parties after the arising of matrimonial dispute between them.

However, now it has been agreed between both the parties amicably to

settle all the pending litigations and hence in the compromise deed itself, there was a stipulation that an application under Section 482 of the Code of Criminal Procedure, 1973 would be filed by the present petitioners, and the respondent would not object to the same.

Learned counsel for both the parties have submitted that in view of the compromise arrived at between the petitioners and the respondent No. 2 continuation of the criminal proceeding against the petitioners, which was initiated on the basis of the FIR, which is sought to be quashed, would only be a futile exercise and would be abuse of the process of court.

I have considered the submissions made by learned counsel for both the sides and have perused the materials on record, including the deed of settlement between both the parties, which was executed on 03.08.2023.

Hon'ble Apex Court has observed in ***Gyan Singh versus state of Punjab***, reported in ***(2012) 10 SCC 303*** as follows:

“in other words, 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 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 criminal case is put to an end, and if the answer to the above question is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding”.

In the instant case, also, as both the parties to this case have arrived at an amicable settlement to resolve their dispute and as a deed of settlement was also executed between them on 03.08.2023, this court is of considered opinion that continuation of the criminal proceeding would be futile and would not secure the ends of justice.

In the considered opinion of this court, this is an appropriate case where the FIR dated 23.11.2021 was lodged by the respondent no. 2 in Jorhat Police Station, on the basis of which Jorhat P. S. Case No. 2577/2021 under Section 498A was registered is liable to be quashed to secure the ends of justice and therefore, the instant criminal petition is allowed and the FIR dated 23.11.2021, on the basis of which, Jorhat P. S. Case No. 2577/2021 was registered under section 498A of the Indian Penal Code and the proceeding emanating therefrom are hereby quashed and this criminal petition is accordingly disposed of.

JUDGE

Comparing Assistant