

GAHC010228552023



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

Case No. : Crl.Pet./1103/2023

PRANJAL PANGING AND 2 ORS.
S/O SRI JOGEN PANGING
R/O WARD NO. 6, NORTH LAKHIMPUR UNDER NORTH LAKHIMPUR
POLICE STATION, IN THE DISTRICT OF LAKHIMPUR, ASSAM

2: SMTI. TWINKLE BARMAN
W/O LATE MONTU PRASAD BARMAN
R/O SAWOTI
NORTH LAKHIMPUR
UNDER NORTH LAKHIMPUR POLICE STATION
IN THE DISTRICT LAKHIMPUR
ASSAM

3: SRI JYOTI BARMAN @ RUP KR. BARMAN
S/O LATE KANAK CHANDRA BARMAN
R/O CHAOTI P.S. NORTH LAKHIMPUR
DIST. LAKHIPUR
ASSA

VERSUS

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

2:SRI TIRTHA DAS
S/O LATE ANANDA DAS
R/O WARD NO. 7
NEAR HOTEL GREENVIEW
NORTH LAKHIMPUR TOWN

P.O. AND P.S. NORTHLAKHIMPUR
DIST. LAKHIMPUR
ASSAM
(M) 943508573

Advocate for the Petitioner : MR. M K DAS

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

06.11.2023

Heard Mr. M.K. Das, learned counsel for the petitioners; Mr. B. Sarma, learned Addl. P.P. for the respondent State No. 1; and Mr. R. Doley, learned counsel for the respondent No. 2.

2. In this petition, under Section 482 of Cr.P.C., three petitioners namely, Pranjal Panging; Smti. Twinkle Barman; and Sri Jyoti Barman @ Rup Kr. Barman, have prayed for setting aside and quashing of the Charge Sheet, being Charge Sheet No. 408/2018 and the proceeding of P.R.C. Case No. 639/2018, arising out of G.R. Case No. 1608/2018, pending before the learned Court of Additional Chief Judicial Magistrate, Lakhimpur, North Lakhimpur under Section 406/420 IPC.

3. It is to be noted here that P.R.C. Case No. 639/2018, arising out of G.R. Case No. 1608/2018, arising out of an FIR, dated 03.07.2018, lodged by one Sri Thirtha Das.

4. Mr. Das, learned counsel for the petitioner submits that the dispute has arisen between the parties out of some rent related matter and now the matter has amicably been settled between the parties and they are no longer willing to proceed with the case and as such, the Charge Sheet No. 408/2018, dated 31.08.2018 and the P.R.C. Case No. 639/2018, arising out of G.R. Case No. 1608/2018, arising out of FIR dated 03.07.2018, may be quashed.

5. Mr. Doley, learned counsel for the respondent No. 2 submits that the matter has already been settled between the parties and in this regard the respondent No. 2 has filed one affidavit also stating therein that he has no objection in allowing the present petition.

6. Mr. Sarma, learned Addl. P.P. also submits that the since the matter has already been settled between the parties, the State has no objection in the event of quashing the aforesaid proceeding.

7. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record.

8. It is appears that North Lakhimpur PS Case No. 720/2018, under Sections 406/420/506/34 of the IPC has been registered on the basis of one FIR lodged by one Tirtha Das and thereafter the investigation was carried out and the same culminated in submission of Charge Sheet, being Charge Sheet No. 408/2018, against the present petitioners. It also appears from the affidavit of the respondent No. 2 that that the matter has amicably been settled between the parties and they are no longer willing to pursue the same and the

respondent No. 2 has no objection in the event of quashing the proceeding.

9. In the case of **State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688**, Hon'ble Supreme Court has held that :-

15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

15.4. Offences under Section 307 IPC and the Arms Act, etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act, etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or

the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge-sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paras 29.6 and 29.7 of the decision of this Court in *Narinder Singh* [*Narinder Singh v. State of Punjab*, (2014) 6 SCC 466 : (2014) 3 SCC (Cri) 54] should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5 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 he had managed with the complainant to enter into a compromise, etc.”

10. In the case in hand the dispute between the parties is appears to be business transaction and besides the parties have resolved the entire dispute amongst themselves. In view above, and also relied upon the ratio laid down by the Hon’ble Supreme Court in the case law discussed above, and also considering the submission of learned counsel for both the parties, this Court is inclined to allow the petition.

11. Accordingly, the petition stands allowed and the Charge Sheet, being Charge Sheet No. 408/2018, in P.R.C. Case No. 639/2018, arising out of G.R. Case No. 1608/2018, arising out of FIR dated 03.07.2018, pending before the learned Court of Additional Chief Judicial Magistrate, Lakhimpur, North

Lakhimpur, stands quashed. The parties have to bare their own costs.

JUDGE

Comparing Assistant