



Serial No. 16
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Petn. No. 38 of 2024

Date of Decision : 14.08.2024

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| <p>1. Shri Bini Mawrie
S/o. (L) D. Warlarpih,
R/o. Jarain Dawah, Lamlyer vill.
East Khasi Hills District, Meghalaya.</p> <p>2. Shri Debanon Nongkhlaw,
S/o. (L) W. Kharpran
R/o. Pdengshnong, Lamlyer vill.
East Khasi Hills District, Meghalaya</p> <p>3. Shri Seiborlang Wankhar
S/o. (L) J.S. Kharkongor,
R/o. Lamlyer Village, East Khasi
Hills District, Meghalaya,</p> <p>4. Shri Stingwell Wankhar,
S/o. (L) K. Mawthoh
R/o. Jarain Daneng, East Khasi Hills
District, Meghalaya.</p> <p>5. Shri Bartony Pyngrope,
S/o. Shri N. Kharkongor,
R/o. Lamlyer Village, East Khasi
Hills District, Meghalaya.</p> <p>6. Shri Tores Nongkhlaw,
S/o. (L) K. Wankhar,
R/o. Nongdawah, Lamlyer village
East Khasi Hills District, Meghalaya</p> <p>7. Shri Pyndapbor Kharsahnoh,
S/o. Shri J. Kharbithai,
R/o. Dong Sohra, Lamlyer village
East Khasi Hills District, Meghalaya</p> | <p>Vs.</p> | <p>1. State of Meghalaya, through the
Commissioner & Secy. to Govt. of
Meghalaya, Dept. of Home(Police)
Secretariat, Shillong, Meghalaya.</p> <p>2. Shri Johnson Kharkongor,
S/o. Smti M. Kharkongor.
R/o. Umphyrnai vill. East Khasi
Hills District, Meghalaya.</p> <p>3. The Dorbar Shnong Umphyrnai
Khyrim Syiemship. Rep. by the
Sodar Umphyrnai, Shillong-793015
Shri L. Kharkongor, S/o. R. Myllem
R/o. Umphyrnai vill. East Khasi
Hills, Meghalaya.</p> |
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.... PETITIONERS

.... RESPONDENTS.



Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s)	:	Mr. K.S. Kynjing, Sr. Adv. with Ms. B. Rapsang, Adv.
For the Respondent(s)	:	Mr. N.D. Chullai, AAG with Mr. E.R. Chyne, GA. (R-1) Mr. S. Sen, Adv. (R.2-3)

JUDGMENT (ORAL)

1. This is an application under Section 482 of the Criminal Procedure Code, 1973 praying for quashing of GR Case No. 93(A) of 2020 registered under Section 3 of Prevention of Damage to Public Property Act, 1984 r/w Section 447/427/34 IPC pending before the court of the Judicial Magistrate First Class, Shillong on the basis of the compromise entered into between the petitioners and the respondents No. 2 and 3.

2. Heard Mr. K.S. Kynjing, learned senior counsel appearing for the petitioners. Also heard Mr. N.D. Chullai, learned AAG appearing for the State respondent No.1 and Mr. S. Sen, learned counsel appearing for the respondents No. 2 and 3.

3. The brief fact of the case is that on 21.12.2017 an FIR was filed by the respondent No.2, the then Sordar of Umphyrnai village, before the Officer-In-Charge Madanrting Police Station, Shillong alleging that the then Sordar of Lamlyer village along with others destroyed the source of water supply constructed under the Community Development Scheme 2015-2016 issued by the BDO Mawrynkneng. The FIR was registered as Madanrting PS Case No. 127(12)2017. Upon completion of the investigation, the matter was charge sheeted and forwarded to the Trial



Court for initiation of criminal proceeding against the petitioners under Section 3 of Prevention of Damage to Public Property Act. 1984 r/w Section 447/427/34 IPC. Apart from the petitioners, there were two other accused in the matter who are not alive now.

4. The learned senior counsel appearing for the petitioner submits that there was a boundary dispute existing between the villages of the petitioners' and the respondent No. 2 and 3 and the filing of the FIR was an outcome of rivalry between the parties. It is the submission of the learned senior counsel that the misunderstanding between the petitioners and the respondents No. 2 and 3, which led to the damage of the water supply source, has now been resolved and the water supply source has been repaired by the parties. The learned senior counsel submits that the suit for damage relating to the same dispute and misunderstanding, filed by the respondent No.2 before the Subordinate District Council Court, Shillong has also been withdrawn on the basis of the amicable settlement between the parties. The learned senior counsel submits that the entire dispute between the two villages has been settled and the villagers of both the village have no grievance against each other. The learned senior counsel has also referred to the Deed of Compromise dated 12.06.2024 entered into between the petitioners and the respondents No. 2 and 3 and submitted that the terms of the compromise are specifically recorded therein. The learned senior counsel submits that since offence under Section 3 of Prevention of Damage to Public Property Act. 1984 is not compoundable, the petitioners have approached this Court by invoking Section 482 Cr.PC for appropriate relief in the matter. The learned senior counsel places reliance on the decisions of the Apex Court reported in (2012) 10 SCC 303, ***Gian Singh vs. State of Punjab and Anr.*** and submits that the High Court is empowered under Section 482 Cr.PC to



quash criminal proceedings even in those cases which are not compoundable on the basis of the compromise/settlement entered into between the parties. He submits that no meaningful purpose will be served if the criminal proceeding is allowed to continue and the same may be quashed.

5. Mr. N.D. Chullai, learned AAG appearing for the State respondent No. 1 submits that the acts of the petitioners have caused wrongful loss to the public exchequer. He submits that water supply source, which was damaged because of the action of the petitioners, was constructed by utilizing public fund sanctioned by the Government and in that view of the matter, this is not a fit case for quashing on the basis of the settlement between the parties. However, the learned AAG does not dispute the fact that the matter has been settled between the petitioners and the respondent No. 2 and 3, and at present, there exists no dispute between them.

6. Mr. S. Sen, learned counsel appearing for the respondents No.2 and 3 supports the submission made by the learned senior counsel for the petitioner and further submits that the respondent No. 3, who is the present Sordar of Umphyrnai village, also acknowledges the settlement/ compromise between the parties and does not want to see that the dispute between the two villages is carried on any longer.

7. A perusal of the record in the present criminal petition and the supporting documents makes it crystal clear that there was a dispute existing between Lamlyer village and Umphyrnai village at the time when the FIR dated 21.12.2017 was filed by the respondent No.2. It is also clear that the allegation of damages of the water supply source was the result of rivalries between the two villages. There is no dispute that



the villagers of both the villages, more particularly the petitioners and the respondents No. 2 and 3, have now settled the differences between them and on the basis of the settlement, the Damage Suit No. 4 of 2018 pending before the Subordinate District Council Court, Shillong was withdrawn. The Deed of Compromise dated 12.06.2024 appended with the writ petition also makes it clear that both the parties have decided to bury their differences and resolved all the issues between them.

8. The case of *Gian Singh (supra)* cited by the learned senior counsel lays down that High Court has inherent power to quash a criminal proceeding even in those cases which are not compoundable under Section 320 Cr.PC, but such power has to be exercised sparingly and with great caution to ensure ends of justice or to prevent abuse of the process of any court.

9. In the instant matter, since the dispute involve two villages and not the private individuals, the compromise/ settlement between the parties would definitely lead to existence of good neighbourhood relationship between the inhabitants of both the villages. The compromise/settlement between the parties will also help the villagers to live in peace and harmony. Furthermore, the counsels appearing for the petitioners and the private respondents No. 2 and 3 have expressed the willingness of the parties to continue co-existence in peaceful manner to bring development to their respective villages. The water supply source, which was the subject matter of dispute, has also been repaired at the initiative of both the parties. In the above situation, having regard to the nature and gravity of the crime, it is deemed proper to quash the criminal proceeding.

10. Accordingly, the further proceeding of GR Case No. 93(A) of 2020 registered under Section 3 of Prevention of Damage to Public Property



Act. 1984 r/w Section 447/427/34 IPC pending before the court of the Judicial Magistrate First Class, Shillong stands quashed.

11. The criminal petition stands allowed.

Judge

Meghalaya

14.08.2024

"N.Swer, Stenographer, Gr-II"