

GAHC040000592024



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

**Case No. : Crl.Petn./6/2024**

Hibu Tana and 4 ORs  
Son of Shri Hibu Tani, permanent resident of Hong Village, PO Ziro, Lower Subansiri District, AP

2: Harokanto Dolley  
Age:  
Occupation :  
Son of Shri Lakhon Dolley  
presently residing at District Court Campus  
Hapoli  
PO Hapoli  
Lower Subansiri District  
AP a permanent resident of Patrishuk Gaon Village  
PO Bengnagaon PS Machkhowa  
Dhemaji District  
Assam

3: Murtem Tatum  
Age:  
Occupation :  
Son of Late Murtem Tam  
presently residing at Govt Qtr Medical Colony near TB Hospital  
Hapoli  
PO Hapoli  
Lower Subansiri District  
AP permanent resident at Boasimla  
PO Raga  
Kamle District  
AP

4: Bagik Tatu  
Age:  
Occupation :

Son of Shri Bagik Talok  
presently residing at Balo Colony  
Hapoli  
PO Hapoli  
Lower Subansiri District  
AP permanent resident at Gatam  
PO Pipsorang  
PS Talia  
Kra Daadi District  
AP

5: Milli Nagu  
Age:  
Occupation :  
Son of Shri Milli Egga  
presently residing at C/o Smti Rago Anya  
Quary Line  
Hapoli  
PO Hapoli  
Lower Subansiri District  
AP permanent resident at Tamin Camp  
Raga PO Raga  
Kamle District  
A

VERSUS

The State of AP  
represented by the PP of AP

**Advocate for the Petitioner** : T Gameh, Kipa Rimi,R NAJI,D Yoka,Jaya Doji

**Advocate for the Respondent** : P P of AP,

**BEFORE**  
**HONOURABLE MR. JUSTICE KARDAK ETE**

**ORDER**

**Date : 25-09-2024**

Heard Mr. T. Gameh, learned counsel for the petitioners. Also heard Mr. T. Ete, learned Additional Public Prosecutor for the State/respondent No. 1.

2. By filing this petition jointly under Section 482 of the Code of Criminal Procedure, the petitioners have prayed for quashment of the Criminal proceedings arising out of Ziro P.S. Case No. 17/2020, corresponding to G. R. Case No. 28/2020 under Sections 457/427/380/34 of the Indian Penal Code, pending before the Chief Judicial Magistrate, Ziro, on the basis of settlement entered between the parties.

3. The case set up by the prosecution, in brief, is that on 29.05.2020 at 1748 hours, a written F.I.R. was received from *Shri Hibu Tana* (petitioner no. 1 herein) of Hong village, Ziro, Lower Subansiri District to the effect that on 29.05.2020 in between 0200 Hours to 0300 Hours (night), some unknown miscreants had stolen away commodities of his electronic shop located at Main Market, Hapoli, by breaking the part of wooden door. It is alleged that the miscreants had stolen mobile handsets and other electronic devices worth Rs. 1,00,000/- (Rupees One lakh). The stolen items are, "(i). *Opo Reno3pro 1 Pc cost Rs 32,990/-, IMEI No 866830042951098*, (ii). *Oppo F 15 1 pc cost Rs 22,990/-, IMEI No-869973042071330*, (iii). *Opo Renon2(F) 1 pc Rs 28,990/-, IMEI No-860527046848314*, (iv). *SSKY Speaker 1 pc Rs 3500/-*, (v). *Keypad Mobile 4 pc Rs 6000/-*, (vi). *SOROOZ6 Speaker 1 pc Rs 1,800/-, Total Rs 96,270/-*".

4. On receipt of the written FIR, a case was registered being Ziro P.S. Case No. 17/2020, under Sections 457/380 IPC. On completion of the investigation, the Police has filed the Charge-sheet under Sections 457/427/380/34 of the Indian Penal Code against the petitioner Nos. 2, 3, 4 & 5. The stage of the proceeding is consideration of charges before the

Court of the learned Chief Judicial Magistrate, Ziro.

**5.** Mr. T. Gameh, learned counsel for the petitioners submits that during the pendency of the criminal proceeding, the complainant, petitioner No. 1 herein, and the petitioner Nos. 2, 3, 4 & 5, have entered into a Deed of Mutual Settlement on 03.10.2023. The agreement has been entered by way of reconciliation meeting between the parties by involving family relatives of both sides at Ziro, thereby, amicably resolved the matter and decided to maintain a harmonious social relationship between the parties. He submits that in view of the settlement between the parties, chances of conviction are bleak and remote. He submits that since the petitioner Nos. 2, 3, 4 & 5 are of very young age, the quashment of the present proceeding will ensure their reformation in future. Therefore, since the parties have settled the matter and the petitioner Nos. 2, 3, 4 & 5 being of young age, the proceedings of G. R. Case No. 28/2020 under Sections 457/427/380/34 of the Indian Penal Code, pending before the Chief Judicial Magistrate, Ziro, may be quashed.

**6.** Mr. T. Ete, learned Additional Public Prosecutor in his usual fairness submits that since the accused(s) are all of very young age and the parties have settled the matter between them, he has no serious objection in quashing of the criminal proceedings, as it would help in their reformation. However, he submits that this Court may take in to account the relevant provisions of law and pass appropriate orders, as it may deem fit and proper.

**7.** I have considered the submissions of the learned counsels appearing for both the sides and also perused the Trial Court Record (TCR).

**8.** On consideration of the materials available on record, it is reflected that some miscreants had stolen certain commodities from the electronic shop of the petitioner No. 1 located at Main Market, Hapoli. The petitioner Nos. 2, 3, 4 & 5 were arrested. It is also seen that during the course of investigation, the petitioner Nos. 2, 3, 4 & 5 had admitted before the Police that they had stolen the articles by breaking the shutter of the shop of the petitioner No. 1. Thereafter, they sold all the articles to different customers.

**9.** The Police had filed the Charge-sheet against the petitioner Nos. 2, 3, 4 & 5 under Sections 457/427/380/34 of IPC, having found evidences against them.

**10.** During the pendency of the trial of the case before the learned Chief Judicial Magistrate, Ziro, the parties have entered into an agreement on 03.10.2023, so as to maintain a harmonious social relationship between them. The settlement has been arrived at, on the reconciliation process initiated by the family relatives of both the complainant and the accused(s), who have joined as the petitioners in the present proceedings.

**11.** Having considered the materials and considering that the parties have settled the matter on the intervention of family members for maintaining harmonious social relationship between them, I am of the considered view that the continuation of the present proceedings would not serve any purpose, rather would be an abuse of the process of law, as the parties have settled the matter and the chances of conviction appear to be remote.

- 12.** The other aspect of the matter, which this Court deem it appropriate to be taken note is that the accused(s) i.e. the petitioner Nos. 2, 3, 4 & 5 are all of very young age of about 18 to 25 years, the settlement of such matter may help them to reform themselves in future.
- 13.** The Hon'ble Supreme Court has enunciated the law on quashment of criminal proceedings, chargesheet and FIR under section 482, Cr.P.C., in the case of **State of Madhya Pradesh Vrs. Laxmi Narayan**, reported in **(2019) 5 SCC 688**, which is reproduced hereinbelow:-

*“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 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/delegate 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 paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh 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 impart 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.”*

**14.** In the light of the law laid down by the Hon'ble Supreme Court referred to hereinabove and in view of the discussions made hereinabove, I am of the considered view that the present case is one of the cases where the inherent power of this Court under Section 482 of the Cr.P.C., 1973 is fit to be invoked.

**15.** Accordingly, the Criminal proceedings arising out of Ziro P.S. Case No. 17/2020, corresponding to G. R. Case No. 28/2020 under Sections 457/427/380/34 of the Indian Penal Code, pending before the Chief Judicial Magistrate, Ziro against the petitioners Nos. 2, 3, 4 & 5, is hereby set aside and quashed.

**16.** In the result, the criminal petition is allowed and disposed of.

**JUDGE**

**Comparing Assistant**