

GAHC040000822023



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

Case No. : Crl.Petn./15/2023

Gabang Pansa and Anr.
S/o Gansai Pansa and Husband of Smti, Nini Pansa,
Village Wakka, PO/PS Wakka.
District Longding, Arunachal Pradesh.
Presently residigng at Longding Town, PO/PS Longding, District Longding,
Arunachal Pradesh.

2: Nini Pansa
Age:
Occupation

VERSUS

THE STATE OF AP
Represented by the Public Prosecutor.

Advocate for the Petitioner : Tabit Tapak

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 29.08.2024

- 1.** Heard Mr. Tabit Tapak, learned counsel for the petitioners. Also heard Mr. T. Ete, learned Additional Public Prosecutor for the State respondent.
- 2.** This application under Section 482 of the Code of Criminal Procedure,

1973 has been filed jointly by the petitioners, namely, ***Sri Gabang Pansa and Smt. Nini Pansa***, who are the husband and wife in relationship for quashing the proceedings of GR Case No. 80/2015 corresponding to Khonsa P.S. Case No. 35/2015 pending before the Court of Judicial Magistrate, First Class, Khonsa.

3. The facts relevant for consideration of the instant criminal petition, in brief, are that on 11th June, 2015, the petitioner No. 2, namely, Smt. Nini Pansa had lodged an FIR before the Superintendent of Police, Tirap, District Khonsa, *inter alia*, alleging that the petitioner No. 1, who is her husband has assaulted her and subjected her to cruelty.

4. On receipt of the said FIR, Khonsa P.S. Case No. 35/2015 under Sections 323/498A/494/506 of the Indian Penal Code was registered and investigation was initiated. Ultimately, on completion of the investigation, charge-sheet has been laid against the petitioner No. 1 before the Court of learned Judicial Magistrate, First Class, Khonsa.

5. The learned counsel for the petitioners has submitted that though the charge under Sections 323/498A/494 of the Indian Penal Code has been framed against the petitioner No. 1, however, in the meanwhile, both the petitioners have amicably settled their disputes and they are presently residing together as husband and wife.

6. The learned counsel for the petitioners has also submitted that to that effect they have also executed a mutual deed of settlement on 17th January, 2023, a copy of which is annexed as Annexure-4 along with the criminal petition.

7. The learned counsel for the petitioners has submitted that in view of the settlement arrived at between the parties, who are the husband and wife in

relationship and who are now living a peaceful marital life, there is unlikelihood of the pending criminal case against the petitioner No. 1 resulting into conviction. Therefore, he submits that in view of the settlement arrived at between the parties, GR Case No. 80/2015 pending before the Court of learned Judicial Magistrate, First Class, Khonsa may be quashed.

8. On the other hand, learned Additional Public Prosecutor has fairly submitted that considering the fact that the parties hereto are husband and wife in relationship are presently residing together after reaching an amicable settlement, the GR Case No. 80/2015 ending in conviction are very bleak and, therefore, it would be an abuse of process of Court to continue with the proceedings of GR Case No. 80/2015.

9. The learned Additional Public Prosecutor also cites a judgment of Apex Court in the case of "***State of Madhya Pradesh Versus Laxmi Narayan and others***" reported in "***(2019) 5 SCC 688***" wherein the Apex Court has observed that where the nature of disputes are arising out of the matrimonial relationship and where the parties have resolved their entire dispute, the powers under Section 482 of the Code of Criminal Procedure, 1973 may be exercised to quash the criminal proceeding in such cases.

10. I have considered the submissions made by the learned counsel for both the sides and have perused the materials available on record.

11. In the instant case, both the parties are the husband and wife in relationship and though the FIR was lodged about nine years ago, the case is still pending for trial before the Court of learned Judicial Magistrate, First Class, Khonsa. However, the parties have also reached an amicable settlement between them and are now residing peacefully as husband and wife.

12. In view of the above facts and circumstances and in the light of the observations made by the Apex Court in the case of "***State of Madhya Pradesh Versus Laxmi Narayan and others***" (supra), this Court is of considered opinion that it would be futile to proceed with the prosecution of GR Case No. 80/2015 as the chances of conviction are very bleak and as continuation of said case would only amount to an abuse of process of the Court.

13. In view of the above reasons, this criminal petition is allowed and the GR Case No. 80/2015 arising out of Khonsa P.S. Case No. 35/2015 pending before the Court of learned Judicial Magistrate, First Class, Khonsa against the petitioner No. 1 is hereby quashed.

JUDGE

Comparing Assistant