

GAHC040001032024



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

Crl. Pet. No. 11 (AP)/2024

- 1. Shri Biri Kakum,**
S/O Shri Biri Tana, R/O Itanagar,
P.O./P.S. Itanagar, District: Papumpare,
Arunachal Pradesh.

- 2. Shri Tana Danial,**
S/O Shri Tana Kelo, R/O Doimukh,
P.O./P.S. Doimukh, District: Papumpare,
Arunachal Pradesh.

...PETITIONERS

VERSUS

- 1. The State of Arunachal Pradesh,**
represented through the Public Prosecutor.

...RESPONDENT

Advocate for the Petitioners : Ms. K. Rimi

Advocate for the Respondent : Ms. L. Hage, Addl. P.P., A.P.

:::BEFORE:::
HON'BLE MRS. JUSTICE MITALI THAKURIA

Date of hearing & judgment : 29.01.2024

JUDGMENT & ORDER (ORAL)

Heard Ms. K. Rimi, learned counsel for the petitioners. Also heard Ms. L. Hage, learned Additional Public Prosecutor for the State respondent.

2. This is an application under Section 482 of the Code of Criminal Procedure, 1973 for quashing and setting aside the criminal proceeding in G.R. Case No. 62/2002, under Section 324 of the Indian Penal Code, arising out of Naharlagun P.S. Case No. 52/2002, pending before the Court of learned Judicial Magistrate First Class, Capital Complex, Yupia.

3. It is submitted by the learned counsel for the petitioners, Ms. K. Rimi, that the present petition has been filed jointly by the accused as well as the victim/complainant as petitioner Nos. 1 & 2, respectively, for quashing the criminal proceeding pending before the Court of learned Judicial Magistrate First Class, Yupia.

4. It is further submitted that on the day of occurrence, there was a scuffle between the 2 (two) groups as all the accused as well as the victim and other persons were under the influence of alcohol and in that process, the present petitioner No. 2, i.e. the victim/complainant, sustained minor injuries. But there was no intention on the part of the petitioner No. 1 to inflict any injury on the

petitioner No. 2. Further she submitted that from the statement of the witnesses recorded under Section 161 Cr.P.C. also, it is seen that they were not aware as to whether the accused inflicted any injury on the victim as all of them were under the influence of alcohol. However, later on, the petitioner No. 2 lodged the complaint/F.I.R. against the petitioner No. 1 with the allegation of assaulting him with a sharp object. In pursuant to the compromise between the parties, they have also entered into a mutual settlement agreement dated 13.09.2023, wherein both the parties have settled their differences and misunderstanding and they have no differences among themselves and they will live peacefully as the incident had happened only due to the influence of the alcohol. It is further submitted by the learned counsel for the petitioners that as the matter has already been settled between the parties, neither the victim nor the other witnesses are interested to adduce evidence in the Court against the petitioner No. 1 and hence, the chance of conviction is very remote and bleak even if the proceeding is allowed to be continued. Accordingly, it is submitted that it is a fit case where this Court can exercise inherent power under Section 482 Cr.P.C. for quashing the criminal proceeding in G.R. Case No. 62/2002, under Section 324 of the Indian Penal Code, arising out of Naharlagun P.S. Case No. 52/2002, pending before the Court of learned Judicial Magistrate First Class, Capital Complex, Yupia.

5. In this context, the learned Additional Public Prosecutor, Ms. L. Hage, has submitted that as per order dated 03.10.2023, the date fixed before the learned Court below for passing necessary order was on 05.02.2024. However, on 03.10.2023, the accused was remained absent before the learned Court below and accordingly she submitted that the scanned copy of the LCR may be required in that regard. However, she admitted that both the petitioners were

already entered into a mutual settlement agreement and in pursuant to the said agreement, they also intimated the learned Court below that necessary application may be filed before the High Court and accordingly prayed for adjournment before the learned Court below. The learned Additional Public Prosecutor further submitted that though the incident took place in the year 2022, they entered into a mutual compromise only on 13.09.2023, i.e. after more than 1 (one) year of incident, and such delay in compromising the matter creates a reasonable doubt.

6. After hearing the submissions made by the learned counsels for both sides and also perusing the case record, it is seen that the present petition is jointly preferred by the victim/informant and the accused person. It also appears that they have resolved their dispute amicably by executing a deed of mutual settlement in presence of their family members and they are now living peacefully without any differences.

7. In the case of **Narender Singh & Ors. Vs. State of Punjab & Anr.**, reported in **(2014) 6 SCC 466**, the Hon'ble Supreme Court has held that when the parties have reached the settlement and when the possibility of conviction is remote and bleak and the continuation of the criminal cases would be futile, the High court can exercise its power under Section 482 Cr.P.C. to set aside the criminal proceeding in order to secure the ends of justice and to prevent the abuse of the process of any court in non-compoundable cases, when the complainant does not want to continue with their own case after their settlement outside the Court.

8. Here in the instant case, it is seen that the dispute between the informant and the accused person has arisen due to misunderstanding and they have resolved the entire dispute amongst themselves and now they are living peacefully.

9. In view of above, ends of justice would be meted out if the petition is allowed. Further, since the matter has already been settled between the petitioners, it is unlikely that the informant/petitioner No. 2 will depose against the accused petitioner No. 1, and in that event allowing the proceeding to continue before the learned Court below would be an abuse of the process of the Court.

10. Under the above facts and circumstances, this Court is of the view that this is fit case where the extra-ordinary power under Section 482 of the Code of Criminal Procedure can be invoked to quash the proceeding pending before the Court of learned Judicial Magistrate First Class, Capital Complex, Yupia. Accordingly, the petition stands allowed. The F.I.R. of Naharlagun P.S. Case No. 52/2002, under Section 324 of the Indian Penal Code and the corresponding criminal proceeding in G.R. Case No. 62/2002, under Section 324 of the Indian Penal Code, pending before the Court of learned Judicial Magistrate First Class, Capital Complex, Yupia, stands set aside and quashed.

11. In terms of above, this criminal petition stands disposed of.

JUDGE

Comparing Assistant