

GAHC040002852023



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

Case No. : Crl.Petn./31/2023

Tachung Padu @ Tasing Padoh
S/o Late Tagi Padoh,
Permanent Resident of Village Quing, Shi Yomi District, Arunachal Pradesh.

VERSUS

THE STATE OF AP and Anr.
Through the Public Prosecutor, Arunachal Pradesh. 2:Hirendra Kashyap
Age: 0
Occupation :
S/o Late Bhagaban Das

Resident of New Bomdila
West Kameng District
Arunachal Pradesh

Advocate for the Petitioner : D Tamuk, Takom Roleng, Romjir Rakshap, Doge Lona, Kirmar Ado

Advocate for the Respondent : P P of AP, Juel Saroh

:::BEFORE:::
HON'BLE MR. JUSTICE KARDAK ETE
JUDGMENT & ORDER(Oral)

Date: 21.11.2024

Heard Mr. R. Rakshap, learned counsel for the petitioner. Also heard Ms. L. Hage, learned Additional Public Prosecutor for the State respondent as well as Mr. J. Saroh, learned counsel appearing for the respondent No.2.

2. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973, praying for quashment of the criminal proceedings of G.R. Case No.67/2019, under Section 324 of the IPC, 1860, arising out of Aalo P.S. Case No. 19/2019, pending before the learned Court of Chief Judicial Magistrate, Aalo.

3. The case, in brief, is that an F.I.R was lodged on 16.03.2019 by the respondent No.2, alleging that the petitioner, a Head Constable engaged as Guard Commander of house guard at Judges' residence of the respondent No.2 at Aalo, namely, Tasing Padoh at around 9 am, has assaulted the son of the respondent No.2 by stick while he was playing inside the campus. On enquiry by the wife of the respondent No.2, the said Tasing Padoh has also argued with the wife of the respondent No.2. In the morning hours, the said Tasing Padoh came to the resident of the respondent No.2, drunk and without uniform. The respondent No.2 asked him to leave his residence but he was again arguing for which the respondent No.2 had to push him out of the residence. It is also alleged that the house guards deployed in the residence of the respondent No.2 used to drink during duty.

4. On receipt of the said F.I.R., a case was registered being Aalo P.S. Case No.19/2019, under Sections 452/324/507 IPC, 1860. On completion of the investigation, a charge-sheet has been filed against the petitioner. It is contended that the petitioner was arrested on 17.03.2019, however, he was released on 18.09.2023 by the learned Court of Chief Judicial Magistrate, Aalo. The learned Court below has framed the charge against the petitioner under Section 324 IPC, on 25.10.2019.

5. Mr. Rakshap, learned counsel for the petitioner submits that the petitioner has not committed any offence as alleged. However, he has tendered apology for his alleged misconduct from the respondent No.2 and the same has been accepted by the respondent No.2 as no bodily injury has been caused to the victim. The petitioner and the respondent No.2 have amicably resolved the case and filed a joint application under Section 320 of the Cr.P.C. before the learned Chief Judicial Magistrate, Aalo for compounding the case, however, the same has not been taken up.

6. Mr. Rakshap, learned counsel further submits that during the pendency of the trial, the petitioner has taken voluntary retirement from the service. However, due to pendency of the present case, he could not avail his service benefits. Therefore, Mr. Rakshap, learned counsel submits that in view of the settlement of the case between the petitioner and respondent No.2 and also considering that no injury is caused to the victim and the offence alleged has not been established, this Court may quash the criminal proceedings of G.R. Case No.67/2019, pending before the learned Court of Chief Judicial Magistrate, Aalo.

7. Ms. L. Hage, learned Additional Public Prosecutor and Mr. J. Saroh, learned counsel for the respondent No.2 have submitted that since the petitioner and the respondent No.2 have amicably settled the matter and the offence alleged to have been committed is not a serious offence and no bodily injury has been caused to the victim, this Court may consider and pass appropriate order in the facts and circumstances of the present case.

8. I have considered the submissions of the learned counsel for the parties and also perused the materials placed on record including the scanned copy of the trial Court's record.

9. On consideration, this Court finds that initially a case was registered for offences under Section 452/324/506 of the IPC, 1860, against the petitioner and the charge-sheet has also been filed. The learned Court below has, however, framed charge against the petitioner only under Section 324 of the IPC.

10. During the pendency of the trial, the petitioner has tendered apology to the respondent No.2 and the same has been accepted by the respondent No.2, thereby, have amicably resolved the matter between them.

11. The respondent No.2 by filing an affidavit in present case, has stated that on 22.11.2022, a joint petition for compounding the case was filed by him and the petitioner as the petitioner has realized his mistake and tendered apology to the respondent No.2 with a promise to improve his behavior, accordingly, he has accepted his apology by providing an opportunity to correct himself. It is also categorically stated by the respondent No.2 that the F.I.R has arisen due to misunderstanding and they have amicably settled the matter, therefore, he has

no objection for quashing of the instant criminal proceedings, pending before the learned Court of Chief Judicial Magistrate, Aalo.

12. Having considered the categorical statement of the respondent No.2 by way of affidavit and considering that a charge has been framed under Section 324 of the IPC, I am of the considered view that the conviction of the petitioner appears to be bleak and such trial would be abused of process of the law. Thus, no useful purpose would be served in continuation of the trial in the present case.

13. In view of the above, I am of the view that the criminal proceedings of G.R. Case No.67/2019, under Section 324 of the IPC, 1860, arising out of Aalo P.S. Case No. 19/2019, pending before the learned Court of Chief Judicial Magistrate, Aalo, is liable to be quashed.

14. Accordingly, the criminal proceedings of G.R. Case No.67/2019, under Section 324 of the IPC, 1860, arising out of Aalo P.S. Case No. 19/2019, pending before the learned Court of Chief Judicial Magistrate, Aalo is hereby quashed.

15. The criminal petition stands allowed and disposed of.

JUDGE

Comparing Assistant