

GAHC040004932024



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

Case No. : Crl.Petn./47/2024

Rupa Das and Anr
Wife of Shri Jitendra Rai,
permanent resident of Gumin Nagar,
Aalo,
PO and PS Aalo,
West Siang District,
Arunachal Pradesh

2: Gamnya Karbak
Age:
Occupation :
Son of Shri Hoggam Karbak
permanent resident of Gumin Nagar
Aalo
PO and PS Aalo
West Siang District
Arunachal Pradesh

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Kemo Lollen

Advocate for the Respondent : Token Ete, Addl.P. P. of AP

**BEFORE
HONBLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 30-07-2024

Heard Mr. K. Lollen, learned counsel for the petitioners and Mr. T. Ete, learned Additional Public Prosecutor for the State of Arunachal Pradesh.

2. By filing this application under Section 482 of the CrPC, the petitioners have prayed for quashment of the Aalo W.P.S. Case No. 20/2023 arising out of FIR dated 19.10.2023 under Sections 354/427/323 of the IPC on the basis of settlement between the petitioners.

3. The case in brief is that on dated 19.10.2023 the petitioner No. 1 lodged an FIR against the petitioner no. 2, stating that the petitioner No. 1 has been running a small restaurant at Gumin Nagar, KKKK building which is owned by the elder brother of the petitioner No. 2 for many years. It is alleged that taking advantage of being alone, petitioner No. 2 always tried to manipulate and ask for physical relationship with him in exchange of rental exemption and fair treatment, seeing his manipulative tactics not being worked, petitioner No. 2 started torturing, abusing and physically assaulted on various occasions in the restaurant. It is further alleged that on many occasions petitioner No. 2 tried to hug, grab and tried to kiss in front of many people and on one occasion when petitioner No. 1 while making video calling to her husband in the year 2022, petitioner No. 2 tried to kiss her. It is further more alleged that on various occasions petitioner No. 1 was badly assaulting physically and on 18.10.2024 in front of many witnesses without any reason when the petitioner No. 1 blocked

the phone number of the petitioner No. 2, he suddenly came to the restaurant of the petitioner No. 1, at around 9 PM, in an intoxication condition attacked, kicked and slapped twice and dragged her outside by grabbing her hairs and broke her mobile phone handset.

4. On receipt of the FIR, Aalo Women P.S. Case No. 20/2023 was registered under Sections 354/427/323 IPC against the petitioner No. 2.

5. It is contended that after 36 days of lodging the FIR, the petitioners have come to a mutual settlement as the petitioner No. 1 is a tenant and a close family relative of the petitioner No. 2. The settlement was entered into on 20.11.2023 in the presence of Gaon Burahs, public leaders and elderly members of the village as the petitioner No. 1 has voluntarily agreed to withdraw the FIR lodged against the petitioner No. 2 on being irked by the behaviour of the petitioner No. 2 which in fact was not a serious issue.

6. Mr. K. Lollen, learned counsel for the petitioners submits that the petitioners have settled the matter by entering into a mutual settlement agreement dated 20.11.2023 at the intervention of the elders, relatives, public leaders and Gaon Burahs of the area. It is a fact that the petitioner No. 2 had not committed the offence as alleged and the allegation and the offence are not serious in nature. He submits that since the parties have already settled the matter, the continuation of the investigation would be futile and abuse of the process of law and therefore, he submits that Aalo Women P.S. Case No. 20/2023 arising out of FIR dated 19.10.2023 registered under Sections 354/427/323 IPC may be quashed.

7. Mr. T. Ete, learned Additional Public Prosecutor fairly submits that since the parties have settled the matter between them and considering that the offence alleged under Section 354 IPC is serious but not heinous, this Court may pass an order deem fit considering the nature of the case and the mutual settlement.

8. I have considered the submissions advanced by the learned counsel appearing for the parties and also perused the materials available on record.

9. It is noticed that an FIR was lodged on 19.10.2023 by the petitioner No. 1 against the petitioner No. 2 and accordingly, Aalo W.P.S. Case No. 20/2023 was registered under Sections 354/427/323 IPC. The allegation under Section 354 relates to assault or criminal force to woman with intent to outrage her modesty which is punishable with imprisonment of not less than 2 years but which may extent to 7 years with fine. It is no doubt that the offence under Section 354 IPC is serious in nature as it pertains to outrage the modesty of woman.

10. The record reveals that after the registration of FIR on 19.10.2023, on the intervention of the family and senior members as well as Gaon Burahs and public leader of the area, the parties have settled the matter. The petitioner No. 1 is a lady, who is running a small business of a restaurant in the rented building of the elder brother of the petitioner No. 2. The agreement appears to be made voluntarily by the petitioner No. 1 as the petitioners are family relatives. It is noticed that on 18.10.2023, the petitioner No. 2 had entered the restaurant of the petitioner No. 1. It also appears that the petitioner No. 1 had some misunderstanding due to conduct and behaviour of the petitioner No. 2 which resulted in lodging of the FIR on 19.10.2023.

11. Having considered that the parties have settled the matter by way of a mutual settlement agreement on the intervention of family and senior members as well as the public leader and Gaon Burahs of the area and considering that the offence is serious but not heinous, this Court is of the view that continuation of the investigation of the Aalo W.P.S. Case No. 20/2023 would be futile and amounts to abuse of the process of law. Thus, this Court is of the considered view that interest of justice would be served if the investigation of the FIR registered as Aalo W.P.S. Case No. 20/2023 under Sections 354/427/323 IPC is quashed by invoking the inherent power of this Court on the facts of the present case.

12. Accordingly, Aalo W.P.S. Case No. 20/2023 under Sections 354/427/323 IPC arising out of the FIR dated 19.10.2023 is hereby quashed.

13. The criminal petition stands allowed and disposed of, accordingly.

JUDGE

Comparing Assistant