

GAHC040005962024



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

Case No. : Crl.Petn./57/2024

Biki Tamo and 3 Ors
Son of Late Biki Tadung, resident of Yangte Village, Circle Gante, Kra Daadi District,
Arunachal Pradesh 2: Khyoda Vijay

Age:

Occupation :

Son of Khoda Taba
resident of Dokum Colony
Itanagar
PO RK Mission
PS Bank Tinali
Papumpare District
Arunachal Pradesh

3: Ampi Taring

Age:

Occupation :

Wife of Borik Panggam
resident of Itanagar Nyokum Lapang
PO and PS Itanagar
Papumpare District
Arunachal Pradesh

4: Goda Pungri

Age:

Occupation :

Wife of Dh Goda Tapung
resident of Pania Village
PO and PS Palin
Kr Daadi District
Arunachal Pradesh

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Rajesh Sonar, Binny Nyaruce,R Taku

Advocate for the Respondent : P P of AP,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

10.09.2024

Heard the learned counsel Mr. R. Sonar appearing for the petitioners. Also heard Ms. T. Jini, the learned Addl. Public Prosecutor representing the State of Arunachal Pradesh.

2. This is a joint application filed by the petitioners under Section 482 of the Code of Criminal Procedure, 1973 praying for quashing the FIR dated 21.04.2024 registered as Palin Police Station Case No.11/2024 under Sections 195A/447/506 of the Indian Penal Code read with Section 34 of the said Code.

3. On 18.04.2024, the petitioner Khyoda Vijay lodged an FIR before police stating that he was the Election Agent of the NPP candidate who was contesting the elections that year. Mr. Vijay has alleged that the other petitioner Shri Biki Tamo was also appointed as a Polling Agent for the NPP party. Biki Tamo was kidnapped by a group of five persons from his residence. Mr. Vijay has alleged in the FIR that he had reasonable apprehension that Biki Tamo was kidnapped by the associates of Balo Raja. In the FIR, it is alleged that the motorcycle of Biki Tamo was also taken away by the kidnappers.

4. Thereafter, on 21.04.2024, the aforementioned Biki Tamo had lodged an FIR before police alleging that he was never kidnapped as alleged by the petitioner Khyoda Vijay. According to Biki Tamo, one unknown lady, being the petitioner Smti. Ampa Taring Panggam, had sent him some inappropriate videos involving his own daughter. The videos were uploaded in the social media. Biki Tamo has stated that his daughter was forced to give fabricated story of his abduction by five persons.

5. Police registered the case being Palin Police Station Case No.11/2024 under Sections 195A/447/506 of the Indian Penal Code read with Section 34 of the said Code.

6. Now, Biki Tamo, Khyoda Vijay and Smti. Ampa Taring Panggam have come together to this Court and submitted that they have settled their dispute amongst themselves.

7. Mr. Sonar has submitted that except the offence under Section 195A of the IPC, the other offences are compoundable under the provisions of the Criminal Procedure Code. Mr. Sonar further submits that there are no elements of Section 195A of the IPC in this case.

8. I have considered the submissions made by the learned counsel of both sides.

9. Section 195A of the Indian Penal Code states that whoever threatens another with any injury to his person, reputation or property or to the person or reputation of any one in which that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both;

It further states that if innocent person is convicted and sentenced in

consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentenced in the same manner and to the same extent as such innocent person is punished and sentenced.

10. The FIR dated 21.04.2024 does not disclose a *prima facie* case under Section 195A of the Indian Penal Code.

11. The guidelines for quashing of the criminal proceeding has been laid down by the Hon'ble Supreme Court in State of *Haryana and Ors. -versus- Bhajanlal and Ors.*, reported in *AIR 1992 SC 604*. Paragraph 102 of the said judgment is quoted hereunder:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just

conclusion that there is sufficient ground for proceeding against the accused.

- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

12. In *Bhajanlal* (supra), the Supreme Court has cautioned that the power under Section 482 of the CrPC is to be sparingly used by the High Courts. The power under Section 482 of the CrPC is meant to prevent abuse of the process of the court.

13. The ratio laid down by the Hon'ble Supreme Court is applicable in the present case.

14. This Court is of the opinion that under the given facts and circumstances of the case, there is no possibility of future conviction in this case. Thus, it is a fit case for exercising the power under Section 482 of the CrPC.

15. Having considered the matter in its entirety, the FIR dated 21.04.2024 registered as Palin Police Station Case No.11/2024 under Sections 195A/447/506 of the Indian Penal Code read with Section 34 of the said Code, is quashed.

The Criminal Petition stands disposed of accordingly.

JUDGE