

GAHC040006272024



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

Case No. : Crl.Petn./62/2024

Shri Chukhu Polen and 2 Ors.

S/o Shri Chukhu Naku, R/o Gumto Village, Domukh, District Papum Pare, Arunachal Pradesh. 2: Shri Techhi Susen

Age:

Occupation :

3: Shri Techhi Tab

Age:

Occupation

VERSUS

THE STATE OF AP

through the Public Prosecutor, Arunachal Pradesh

Advocate for the Petitioner : Ojing Pada

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE BUDI HABUNG

JUDGMENT & ORDER

18.07.2024

Heard Mr. O. Pada, learned counsel for the petitioners. Also heard Mr. T. Ete, learned Addl. Public Prosecutor for the State of Arunachal Pradesh.

2. This criminal petition under Section 482 of the Code of Criminal Procedure, 1973 has jointly filed by the petitioner No.1(informant), the petitioner No.2(accused No.1) and the petitioner No.3(accused No.2) praying for quashing and setting aside of G.R. Case No.894/2022 and the charge-sheet No.03/2023 dated 15.02.2023, arising out of the FIR No.49/2022, dated 02.11.2022, registered before the Doimukh Police Station, under Sections 447/448/506/34 IPC.
3. The fact of the case in brief is that on 01.11.2022, the petitioner No.1 lodged a written FIR before the Officer-in-Charge, Doimukh Police Station against the petitioners No.2 and 3(accused persons), *inter-alia*, alleging therein, that the petitioners No.2 and 3 have committed house trespass, house lurking, criminal intimidation, threatened to kill and physically assaulted him and his wife on 29.10.2022 at about 1 to 3 am morning at Gumto village.
4. Basing on the above written FIR, the above FIR No.49/2022, dated 02.11.2022, was registered under Sections 447/448/506/34 IPC. And after completion of investigation, the IO of the case has submitted the case into charge sheet against the accused petitioner No.2 and 3 for offence u/s 447/448/506/34 IPC to face the trial. And after taking cognizance of the case, the trial of the case commenced by framing charge against both the petitioners No.2 and 3 for offence under Sections 452/506 para-II of the IPC on 20.09.2023.
5. It is further submitted that the petitioners No.1, 2 and 3 are close family relatives, and considering the fact that both the petitioners No. 2 and 3 are close family relatives and any criminal case against them would jeopardize their bright future and career prospect; the informant petitioner No.1 has forgiven them. And he no longer desirous to pursue the matter any further. Therefore, the family of the petitioners No.1, 2 and 3 sat together and have amicably settled the matter by executing a Mutual Settlement Deed dated 05.01.2024. By the said mutual settlement deed, the petitioners No.2 and 3 had sought for an unconditional apology from the petitioner No.1 for their misbehaviors and misunderstanding created by them and the petitioner No.1 has duly acknowledged and accepted their apology and has forgiven both the petitioner No.2 and 3 for their mis-behaviors. As a consequence of the said mutual settlement deed, the petitioner No.1 having forgiven the petitioners No.2 and 3 has agreed to withdraw his FIR and the case pending against them with the permission of the Court.

6. Mr. Pada, learned counsel for the petitioners submits that after executing the mutual settlement deed, the petitioners have approached and apprised the learned trial Court expressing their willingness to withdraw the case, however, as the offence charged against the petitioners No. 2 and 3, particularly, the offence under Section 452 IPC is non-compoundable offence and as it is beyond the power of the learned trial Court to compound the non-compoundable offence under trial, the petitioners by invoking under Section 488 of the Cr.P.C have filed this petition for quashing and setting aside of the said G.R. Case No.894/22, pending before the learned Court of the Chief Judicial Magistrate, Capital Complex, Yupia.

7. The learned counsel for the petitioners further submits that since the matter has amicably been settled between the parties; even if the offence punishable under Section 452 of the IPC, has been held to have committed by the petitioners No.2 and 3, the same is an offence against the individual person affecting only private person i.e., the petitioner No.1 and not against the society at large. In the instant case, since the informant (petitioner No.1) had lodged an FIR against the petitioners No.2 and 3 due to some misunderstanding and without knowing the fact that they are close family relatives. Further, subsequently, the misunderstanding has amicably been settled between the parties and the petitioner No.1 expressed his desire not to pursue the matter any further and wanted to withdraw the same from the Court; under such circumstances, the further proceedings of the case against the petitioners No.2 and 3 pending before the learned Court of the Chief Judicial Magistrate, Capital Complex, Yupia would be futile exercise and it will amount to abuse of process of law, thereby, causing unnecessary harassment not only to the petitioners No.2 and 3 (accused persons), but also to the petitioner No.1 and their entire family and relatives. Hence, the petitioners pray for setting aside and quashing of the G.R. Case No.894/22 and the charge-sheet No.03/2023 dated 15.02.2023, arising out of the FIR No.49/2022, dated 02.11.2022, registered before the Doimukh Police Station, under Sections 447/448/506/34 IPC.

8. Mr. Ete, learned Addl. P.P. fairly submits that since the petitioners are close family relatives and the FIR was lodged by the petitioner No.1 against the petitioners No.2 and 3 due to some misunderstanding between them and without knowing the fact that they are close family relatives and further that subsequently, the matter has already been amicably settled

between the parties by executing mutual settlement deed; under such circumstances, further proceedings of the criminal case against the petitioners No.2 and 3 would in fact be a futile exercise. It will also cause an unnecessary harassment to all the parties. Under the facts and circumstances of the case and in view of the above case, having mutually compromised and settled the matter between the parties, the learned Addl. Public Prosecutor has no objection if the present criminal petition is allowed.

9. Upon considering the material available on record and on hearing the learned counsels appearing for the parties, it appears that the FIR was lodged by the petitioner No.1 against the petitioners No.2 and 3 due to their misbehaviors and without knowing that they were his close family relatives, resulting the registration of the above mentioned P.S. case leading into investigation and subsequent filing of charge-sheet against the petitioners No.2 and 3. However, it is now seen that the parties have amicably settled the matter by executing a mutual settlement deed. Under the circumstances, the further proceedings of the case against the petitioners No.2 and 3 would be futile exercise. It is the case of the petitioners that the petitioner No.1(informant) having settled the matter does not want to pursue the case any further.

10. Mr. Ete, learned Addl. P.P. has conceded the above submission made by the learned counsel for the petitioners and he has no objection if the prayer of the petitioners for closing the trial proceedings in the Court of the Chief Judicial Magistrate is allowed. Under the circumstances, it appears that the continuation of the criminal proceedings before the trial Court would only result in hardship to the parties and it would be a waste of precious judicial time of the Court and also loss of exchequer to the State.

11. In view of the above, I find sufficient force in the submissions of the learned counsels for the parties with sound logic.

12. In support of his submission, the learned counsel for the petitioners has relied upon a case, *Kapil Gupta Vs. State of NCT of Delhi & Anr.*, reported in (2022) 0 Supreme (SC) 1108, wherein, in paragraph-12, the Hon'ble Supreme Court has observed that no doubt that the legal position that in heinous and serious offences like murder or rape, the Court should not quash the proceedings. However, by referring to the paragraph 29.5 to 29.7 of the judgment of

the Hon'ble Supreme Court in the case of *Narinder Singh Vs. State of Punjab*, reported in 2014 (6) SCC 466, wherein, in paragraph-95.5, it is observed that “*while exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases...*”

13. It is further observed in paragraph-13 of the case in *Kapil Gupta(supra)*, it can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

14. Further, in such circumstances, it is also well settled that even though the offence alleged against the accused is not compoundable, the Higher Court viz., the High Court or the Apex Court in exercise of their inherent/special power may intersect the pending criminal proceedings. In this regard, this Court may also gainfully place the reliance on the principle of enunciated by the Hon'ble Apex Court in the case of *Ram Gopal Vs. State of Madhya Pradesh*, reported in 2021 SCC Online SC 384.

15. In view of the above referred decisions of the Hon'ble Supreme Court, and since, the case has amicably been settled amongst the parties, *interse*, this Court is of the considered opinion that the pending criminal proceedings in G.R. Case No.894/2022, arising out of the FIR No.49/2022, under Sections 447/448/506/34 IPC charged under section 452/506 of the IPC need be set aside and quashed. Accordingly, the G.R. Case No.894/2022, arising out of the FIR No.49/2022, dated 02.11.2022, registered before the Doimukh Police Station, under Sections 447/448/506/34 IPC, pending in the Court of the learned Chief Judicial Magistrate, Capital Complex, Yupia against the petitioner No.2, Techii Susen; and the petitioner No.3, Techii Tab, is hereby set aside and quashed. As a result, the case pending adjudication against the petitioners No.2 and 3, namely Techii Susen and Techii Tab, is discharged.

16. With the above observation, the criminal proceeding stands disposed of.

Return the record, forthwith.

JUDGE

Comparing Assistant