

GAHC040006282024



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

Case No. : Crl.Petn./63/2024

Shri Dinesh Machahary and 2 Ors.

S/o Lt. Biswanath Machahary, Village Koraimari, PO Sonapur, PS Gohpur, Dist.

Biswanath, Assam. 2: Shri Phelin Brahma

Age:

Occupation :

S/o Shri Budhadeb Brahma

Koraimari Village

PO Sonapur

PS Gohpur

District Biswanath (Assam)

3: Shri Chello Takang

Age:

Occupation :

S/o Shri Chello Nikter

Lor Putung

Zoo Road. PO R.K Mission

PS Chimpu

Dist. Papum Pare (A.P

VERSUS

THE STATE OF AP

Representing through the Public Prosecutor

Advocate for the Petitioner : Teto Taba, Anong kabak, Mardo Game, Vijay Duku Raji, C Ering, Begi Taba

Advocate for the Respondent : P P of AP,

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 27.11.2024

Heard Mr. T. Taba, learned counsel for the petitioners. Also heard Ms. T. Jini, learned Additional Public Prosecutor for the State.

2. By filing this petition jointly under Section 482 of the Code of Criminal Procedure, 1973, the petitioners have prayed for quashing of the criminal proceedings of G.R. Case No.1227/2021, arising out of Chimpu P.S. Case No.47/2021, under Sections 380/34 of the IPC, pending before the learned Court of Chief Judicial Magistrate, Yupia, on the basis of settlement arrived at between the petitioners.

3. The case set up by the prosecution is that on 24.12.2021 at 1922 hours, a written F.I.R. was received from one Shri Chello Takang, to the effect that on 23.12.2021 at about 03.00 AM, his motor cycle (Yamaha R-15 V3 Black colour) bearing registration No.AR-15-2831 has been stolen by some unknown miscreants from his rented house parking place.

4. On receipt of the said F.I.R., a case was registered by the Officer-in-Charge, Police Station Chimpu, being Chimpu P.S. Case No.47/2021 under Section 379 of the IPC.

5. During the investigation, the petitioners No.1 and 2 were caught with the stolen motor cycle from their possession. Accordingly, they were arrested and the stolen motor cycle was seized from their possession. Thereafter, the motor cycle was given on Zimma to the owner of the said motor cycle, Shri Chello

Takang (informant), the petitioner No.3 herein. It is recorded by the Investigating Agency that the petitioners No.1 and 2 have accepted that they have stolen the said motor cycle.

6. After completion of the investigation, the police has filed the charge-sheet under Sections 379/34 of the IPC against the petitioners No.1 and 2. Thereafter, the learned Court below has framed the charges against the petitioners No.1 and 2.

7. Mr. T. Taba, learned counsel for the petitioners, submits that although as per the charge-sheet of the police, the petitioners No.1 and 2 stated to have admitted the guilt. However, during the pendency of the trial of the case, the petitioners have entered into a Deed of Agreement dated 07.05.2024, and have settled the matter amicably with a mutual understanding that they shall maintain cordial and amicable relationship with each other. Therefore, he submits that even if the criminal proceedings is allowed to be continued, the chances of conviction are bleak and as such, prays for quashing the criminal proceedings of G.R. Case No.1227/2021, under Sections 380/34 of the IPC, pending before the learned Court of Chief Judicial Magistrate, Yupia

8. Ms. T. Jini, learned Addl. Public Prosecutor, in her usual fairness, submits that since the motor cycle has already been recovered and handed over to the owner i.e., the petitioner No.3 herein, and the petitioners have voluntarily settled the matter by executing a Deed of agreement amongst themselves, the chances of conviction is remote and the continuance of such proceedings may be abuse of process of the law. Therefore, Ms. Jini, learned Addl. P.P., submits that in the facts and circumstances of the present case, this Hon'ble Court may consider

and pass an appropriate order.

9. Due consideration has been extended to the submissions of the learned counsel for the parties and also perused the record of the trial Court.

10. On perusal of the records, it reveals that the petitioners No.1 and 2 have admitted that they have stolen the said motor cycle. However, the said statement has been made before the police. The said stolen motor cycle has already been recovered and handed over to the owner i.e., the petitioner No.3 herein. The petitioners vide Deed of Agreement dated 07.05.2024 have entered into a settlement, wherein they have settled the matter amicably so as to maintain cordial relationship between themselves by involving the family members.

11. Having considered the above facts and circumstances of the case, I am of the view that continuance of the present criminal proceedings before the Court would not serve any purpose as in view of the settlement arrived between the parties, no evidence would be forthcoming during the proceedings to establish the guilt of the accused persons. The chances of conviction appears to be far too remote, thus, allowing such proceedings would be nothing but an abuse of process of law, wherein no conviction could be obtained.

12. Having considered the matter in its entirety and on its attending facts and circumstances, I am of the view that the criminal proceedings of G.R. Case No.1227/2021, arising out of Chimpu P.S. Case No.47/2021, under Sections 380/34 of the IPC, pending before the learned Court of Chief Judicial Magistrate, Yupia, warrants interference, by invoking the inherent power conferred under

Section 482 of the Cr.P.C.

13. Accordingly, the criminal proceedings of G.R. Case No.1227/2021, arising out of Chimpu P.S. Case No.47/2021, under Sections 380/34 of the IPC, pending before the learned Court of Chief Judicial Magistrate, Yupia, is hereby quashed.

14. The criminal petition stands allowed and disposed of.

JUDGE

Comparing Assistant