

GAHC040006912024



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

Case No. : Crl.Petn./78/2024

Bengia Juda @ Yumlam Juda and Anr
Son of Late Yumlam Nilo, Yumlam Village, PO and PS Koloriang, Kurung Kumey
District, Arunachal Pradesh 2: Smti Toku Yabang
Age:
Occupation :
Wife of Bengia Juda @ Yumlam Juda
Koloriang Village
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

VERSUS

The State of AP
represented by the PP of AP

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

Advocate for the Respondent : P P of AP,

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 21.10.2024

Heard Ms. C Ering, learned counsel for the petitioners. Also heard Mr. G Tado, learned Additional PP, Arunachal Pradesh.

2. This is an application filed under Section 482 of the Cr.P.C. praying for setting aside and quashing the proceeding of Itanagar Women PS case No. 02/2016 corresponding to GR No. 06/2016 registered under Section 498A/323/506/120B IPC pending for trial before the Court of learned CJM, Capital Complex at Yupia.
3. In the F.I.R. it is alleged that one Miss Tarh Meku (Kuku) had an affair with the husband of the informant and said accused Miss Tarh Meku (Kuku) induced the husband of the informant to dissolve the marriage and on her insistent, her husband assaulted the informant.
4. This present petition is jointly filed by the informant cum victim and the accused husband of the informant.
5. The present petition is filed in a backdrop that the informant and the accused had settled the matter amicably between them and therefore, this court in exercise of power under Section 528 of BNSS should quash the criminal prosecution as the offences charged are not compoundable under the provision of BNSS.

6. It is on record that after the registration of the FIR, the case was investigated by the Investigating Officer and Charge Sheet was laid against the petitioner No. 1 i.e. the husband of the victim, vide Charge Sheet No. 56/2016 dated 23.05.2016 in connection with Itanagar Women PS case No. 02/2016 corresponding to GR No. 06/2016 registered under Section 498A/323/506/120B of IPC. It is important to note here that the said Miss Tarh Meku (Kuku) has not been sent for trial.
7. It is also on record that subsequently, the petitioners have mutually settled the matter on 24.05.2024, which is annexed to the petition as annexure 6. Annexure 6 reflects that the petitioners have amicably settled their disputes.
8. The power under Section 528 of BNSS, 2023 is an inherent power and such inherent power can be exercised to quash a criminal proceeding or a criminal complaint but while doing so the court is to follow certain principles. Such power can be exercised, amongst others, when the offences alleged are overwhelmingly and predominantly civil in character or when such dispute arises out of matrimonial relationship or family disputes and the parties have resolved the entire disputes amongst themselves. While exercising such directory power it is to be seen that such offences if compromised shall not affect the society at large.
9. Coming to the case in hand, after perusal of the materials available on record including the charge sheet, the statement of witnesses and the compromise settlement, this Court is of the opinion that the offence do

not involve any heinous or serious offence and that if the offences are allowed to be compounded that will have no serious impact on the society inasmuch as the dispute is a dispute between the husband and wife. Therefore, in the considered opinion of this Court, more particularly, in the given facts of the present case, this is a fit case where the power under Section 528 of BNSS can be exercised.

10. Accordingly, this petition is allowed by setting aside and quashing the criminal proceeding of Itanagar Women PS case No. 02/2016 corresponding to GR No. 06/2016 registered under Section 498A/323/506/120B IPC pending for trial before the Court of learned CJM, Capital Complex at Yupia.

JUDGE

Comparing Assistant