

GAHC040006992024



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

Case No. : Crl.Petn./80/2024

Raye @ Roy Venia and Anr
Son of Shri Abing Venia, Village Type III Colony Seppa, PO and PS Seppa, East
Kameng District, Arunachal Pradesh 2: Smti Mari Tajo
Age:
Occupation :
D/o Shri Tawe Tajo
Village Tajo
PO and PS Chayanj Tajo
East Kameng District
Arunachal Pradesh

VERSUS

The State of AP
represented by the PP

Advocate for the Petitioner : S V Darang,

Advocate for the Respondent : P P of AP,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

12.09.2024

Heard the learned counsel Ms. S.V. Darang 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 proceeding of G.R. Case No.450/2019 arising out of ITA WPS Case No.32/2019 under Section 376 of the Indian Penal Code.

3. On 13.07.2019, the petitioner Ms. Mari Tajo had lodged an FIR before police alleging that in the middle of November, 2018, the other petitioner Raye @ Roy Venia had entered into her room and ultimately committed rape upon her. She has stated that in order to save the reputation and dignity of the entire family, she did not tell the others about the said incident. Subsequently, she gathered strength and lodged the said FIR before police.

4. During investigation, the elder brother of Mari Tajo and sister of Roy Venia have stated before police under Section 161 of the CrPC that both of them were having a relationship for a long time. They have also stated that they noticed that both of them were not compatible with each other because they had developed disputes between themselves.

5. On conclusion of investigation, police filed the *charge sheet* under Section 376 of the IPC against the petitioner Raye @ Roy Venia.

6. Now, Mari Tajo and the accused petitioner Raye @ Roy Venia have jointly filed the present application stating that they have already settled their disputes between themselves and they are no longer interested in prosecuting the case before the trial court.

7. The informant has stated in the petition that she is a MA (Hindi) student and has a bright future ahead of her. Therefore, she wants to move with her life. She has also stated that the cousin of the petitioner Raye @ Roy Venia married to her elder sister.

8. I have also gone through the case diary. It appears that both the petitioners were maintaining a relationship for a long time, seems to be plausible.

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

10. 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."

11. 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.

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

13. 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.

14. Having considered the matter in its entirety, the proceeding of G.R. Case No.450/2019 arising out of ITA WPS Case No.32/2019 under Section 376 of the Indian Penal Code, is quashed.

The Criminal Petition stands disposed of accordingly.

JUDGE

Comparing Assistant