

GAHC040007162024



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

Case No. : Crl.Petn./83/2024

Nyape Tao and 11 Ors

Son of Shri Karnya Tao, resident of Bali Village, PO and PS Likabali, Lower Siang District, Arunachal Pradesh 2: Bijum Ngulom

Age:

Occupation :

Son of Late Rikbi Bgulom

resident of Malini Village

PO and PS Likabali

Lower Siang District

Arunachal Pradesh

3: Kirmar Dini

Age:

Occupation :

Son of Late Takir Dini

resident of Lipu Village

PO and PS Likabali

Lower Siang District

Arunachal Pradesh

4: Mikjom Taso

Age:

Occupation :

Son of Shri Taimik Taso

resident of Roate Village

PO and PS Likabali

Lower Siang District

Arunachal Pradesh

5: Jarka Doke

Age:

Occupation :

Son of Binjir Doke

resident of Paimori
Village
PO and PS Gensi
Lower Siang District
Arunachal Pradesh

6: Lukge Doke
Age:
Occupation :
Son of Shri Taluk Doke
resident of Kuntor Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh

7: Gumke Riba
Age:
Occupation :
Son of Late Gegum Riba
resident of Liru Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh

8: Gomo Ada
Age:
Occupation :
Son of Shri Migo Ada
resident of Liru Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh

9: Ribbom Nyigyor
Age:
Occupation :
Son of Shri Tarik Nyigyor
resident of Hime Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh

10: Nichi Ngomle
Age:
Occupation :
Son of Late Tini Ngomle
resident of Hime Village
PO and PS Likabali

Lower Siang District
Arunachal Pradesh

11: Smti Jiygam Nyigyor
Age:
Occupation :
Wife of Shri Ribbom Nyigyor
resident of Hime Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh

12: Smti Pujom Nyigyor
Age:
Occupation :
Wife of Shri Kirbi Nyigyor
resident of Hime Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Taku Pumbo, Mipe Ete, Tashap Nima, Tame Rimi, D Saikia

Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 27.11.2024

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

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. 294/2020, arising out of Likabali P.S. Case No.

16/2019, under Sections 143/146/149/324 of the IPC, pending before the learned Court of Chief Judicial Magistrate, Pasighat, East Siang District, on the basis of settlement arrived at between the petitioners.

3. The case set up by the prosecution is that on 14.04.2019, at around 1650 hrs, a written complaint was received from one Shri Tini Ngomle (Head GB), Hime village of Lower Siang District, to the effect that on 13.04.2019 at around 1130 hrs to 1200 hrs, a group of anti-social elements comprised of more than 200 to 300 persons led by Shri Gumke Riba, Henli Riba, Kirmar Dini, Mikjom Taso, Bigam Ngulom and Jarka Doke holding an iron hammer and others fully equipped with small arms, iron rods, Dao, Knives and other lethal weapons attacked Hime village. In the meanwhile, the assailants were interrupted and stopped by women folks of the village and in the process, one Smti Piyum Nyigor and Jiygam Nyigor were assaulted and sustained serious injury. An attempt was made by the village elders to pacify but it went in vain. Taking advantage of the situation, even murder was also attempted to Shri Ribbom Nyigyor and Shri Nichi Ngomle by Shri Kirmar Dini.

4. On receipt of the written F.I.R., a case was registered being Likabali P.S Case No. 16/2019 under Sections 143/148/149/324 of the IPC. On completion of the investigation, the police has filed the charge-sheet against the petitioners No. 1 to 8 under Sections 143/148/149/324 of the IPC. The case is pending for consideration of charges before the learned Court of Chief Judicial Magistrate, Pasighat.

5. During the pendency of the criminal proceedings, the accused, the petitioners No. 1 to 8 herein and the victims, petitioners No. 9 to 12 have entered into an amicable settlement vide Deed of Mutual and Amicable Settlement dated 15.05.2024, wherein the parties have settled the matter to

maintain cordial relationship amongst themselves as the incident has arisen out of purely election related matters.

6. Mr. D. Saikia, learned counsel for the petitioners, submits that in view of the settlement arrived at between the petitioners and having considered that the incident had happened due to misunderstanding during the election of Assembly and Parliamentary Election, the criminal proceedings of G.R. Case No. 294/2020, under Sections 143/146/149/324 of the IPC, pending before the learned Court of Chief Judicial Magistrate, Pasighat may be quashed as continuance of such proceedings would be an abuse of process of law.

7. Ms. T. Jini, learned Additional Public Prosecutor in her usual fairness submits that since the parties have already entered into settlement between them and the Injury Report shows the nature of injury as simple, this Court may consider and pass an appropriate order.

8. Considered the submissions of the learned counsel for the parties and perused the material available on record.

9. On consideration of the materials on record, it appears that the incident had occurred during the Assembly and the Parliamentary Election between the supporters of the rival political parties. It is also noticed that no serious injuries have been sustained by the victims except a few simple injuries which is found in the record. The parties on realizing that the incident had happened purely on misunderstanding during the election and has arisen between the supporters of the rival political parties have entered into a mutual settlement amongst themselves.

10. Having considered the attending facts in the present case, this Court is of the view that since the parties have settled the matter, which has arisen out of

Election related issue between the rival political parties and considering that though in the process, victims have sustained simple injury, the parties have settled the matter and are maintaining cordial relationship, it would be unfair or contrary to the interest of justice to allow continuation of the criminal proceedings which would amount to abuse of law as there is unlikelihood of conviction of the accused persons.

11. The Hon'ble Supreme Court has enunciated the law on quashment of criminal proceedings, charge-sheet and FIR under Section 482 of the Cr.P.C in the case of ***State of Madhya Pradesh Vs. Laxmi Narayan & Ors.***, reported in ***(2019) 5 SCC 688***, which is reproduced hereinbelow:

"15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

15.4. Offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section

307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5. While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc. "

12. In the light of the law laid down by the Hon'ble Supreme Court referred to hereinabove and the material placed on record, which indicates of petty offences which has arisen on account of election related matter as well as the petitioners are maintaining cordial relationship, I am of the view that the criminal proceedings of G.R. Case No. 294/2020, arisen out of Likabali P.S. Case No. 16/2019, under Sections 143/146/149/324 of the IPC, pending before the learned Court of Chief Judicial Magistrate, Pasighat, warrants interference by invoking inherent power conferred under Section 482 of the Cr.P.C.

13. Accordingly, the criminal proceedings of G.R. Case No. 294/2020, arisen out of Likabali P.S. Case No. 16/2019, under Sections 143/146/149/324 of the IPC, pending before the learned Court of Chief Judicial Magistrate, Pasighat, is hereby quashed.

14. The criminal petition stands allowed and disposed of.

JUDGE

Comparing Assistant