

GAHC040007332024



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

Case No. : Crl.Petn./85/2024

Tenzin Dawa and Anr

Son of Shri Wangdi Chombey, a permanent resident of Rupa, PO and PS Rupa, West Kameng District, Arunachal Pradesh and presently residing at Joram Begi Lapang, Ganga, Itanagar, PO and PS Itanagar, Papumpare District, Arunachal Pradesh

2: Gomnya Maro

Age:

Occupation :

a permanent resident of Maro Village

PO and PS Dumporijo

Upper Subansiri District

Arunachal Pradesh and presently residing at Senki View

PO and PS Itanagar

Papumpare District

Arunachal Pradesh

VERSUS

The State of Arunachal Pradesh
represented through the PP of AP

Advocate for the Petitioner : Muk Pertin, Senior Advocate, Dakjum Riba, Mukbom Pertin, Tshering Yangzom Bhutia, Tallo Talang, Karyom Dabi

Advocate for the Respondent : P P of AP,

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

ORDER

Date : 21.10.2024

Heard Mr. T Gyatso, 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 FIR dated 05.12.2016 registered as Naharlagun PS Case No. 212/2016 under Section 279/338 IPC.
3. The F.I.R. was filed by the petitioner No.2 on 05.12.2016 alleging that on 04.12.2016 when his cousin brother was coming back from Yupia on his scooty bearing No. AR 07-3846, a Nissan Micra Car bearing No. AR 01 G-1745 hit the scooty and ran away.
4. This present petition is jointly filed by the informant and the accused person. The petitioner No. 1 in the present application is the accused who drove the vehicle and the petitioner No. 2 is the informant.
5. The present petition is filed in a backdrop that the complainant and the accused had settled the matter amicably between them and therefore, this court in exercise of power under Section 482 of Cr.P.C. should quash the criminal prosecution as the offences charged are not compoundable under the provision of Cr.P.C.
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 vide Charge Sheet No. 68/2022 dated 17.05.2022 under Section 279/338 IPC corresponding to Naharlagun PS Case No. 212/2016 under Section 279/338 of the IPC.

7. It is also on record that prior to filing of the charge sheet, the petitioners have mutually settled the matter and executed a Settlement Agreement on 11.06.2019, which is annexed to the petition as annexure 2. Annexure 2 reveals that the petitioners have amicably settled their disputes and the victim was duly compensated.
8. The power under Section 482 of Cr.P.C. 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, from the perusal of materials available on record including the charge sheet, the statement of witnesses and the compromise settlement, this Court has formed an 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. Therefore, this is a fit case where the power under Section 482 of Cr.P.C. can be exercised. The record also reveals that the accused person was not

absconding and the settlement was arrived immediately after the accident.

10. Accordingly, this petition is allowed by setting aside and quashing the criminal proceeding being FIR dated 05.12.2016 registered as Naharlagun PS Case No. 212/2016 under Section 279/338 IPC.

JUDGE

Comparing Assistant