

GAHC040008092024



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

Case No. : Crl.Petn./94/2024

Shri Patey Tajuk and Anr
Son of Late Patey Teering, permanent resident of Village Jaksitar, PO and PS
Chambang, Kra Daadi District, Arunachal Pradesh
2: Dejar Gadi
Age:
Occupation

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Arup Bhattacharjee

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 26-06-2024

Heard Mr. Arup Bhattacharjee, learned counsel for the petitioners. Also heard Mr. T. Ete, learned Additional PP for the State of AP.

2. This is a joint petition under section 482 of the Code of Criminal Procedure, 1973, filed by the petitioners praying for quashing and setting aside

the GR case no. 809/17 arising out of FIR dated 14.12.17 registered as Itanagar PS case no. 328/2017 under section 279/338 IPC pending before the Court of Judicial Magistrate First Class, Yupia.

3. The fact of the case in brief is that on 13.12.2017, one Shri. Dejar Gadi of F&G Sector, Itanagar lodged a written complaint before the Officer-in-Charge, Itanagar PS stating therein that on 13.12.17 at around 10 pm one Scorpio vehicle bearing registration No. AR-01H-9777 came from the opposite direction near Rajiv Gandhi Bhavan, Itanagar and hit his scooty bearing registration No. AR-02-3558, as a result of which he had sustained multiple injuries on his person.

4. Basing on the above information, the case being ITA PS case no. 328/17 under section 279/338 IPC was registered and investigated into. After completion of the investigation and on being found prima facie case, the IO submitted the case into chargesheet against the petitioner No. 1 under section 279/338 IPC.

5. It is submitted that the petitioner No. 1 and 2 are relatives. Hence, the case was mutually settled between the parties and the petitioner no. 1/accused had borne all the medical treatment expenditure of the petitioner No. 2 and also purchased him a new scooty for the damage of his scooty, but the said settlement could not be reduced into writing when the matter was settled in the year 2017. However, later on, that is on 14.06.2024 the mutual settlement between the parties has been reduced into writing whereby amongst others it contains that the case being GR case No. 809/2017 arising out of ITA PS case no. 328/17 under section 279/338 IPC has been settled between the parties.

The informant/ petitioner No. 2 has also received adequate compensation from the accused/petitioner no. 1 and it is also stated therein that the petitioner No. 2 will withdraw the above GR case no. 809/2017 against the petitioner No. 1 from the Court of the learned Judicial Magistrate First Class, Yupia.

6. Since the matter has already been settled between the parties and as the petitioner No. 2 has no further grievance against the petitioner No. 1, he expressed that he does not want to pursue the case and wants to withdraw the said case. However, as one of the offence chargesheeted against the accused/petitioner No. 1, more particularly, section 279 IPC being non-compoundable in nature, the informant/petitioner No. 2 has been advised to approach the higher court. Hence, the petitioners have jointly filed this criminal petition praying for quashing and setting aside the aforementioned GR case no. 809/17 under section 279/338 IPC.

7. The learned counsel for the petitioners submits that although the petitioner No.2/informant had lodged a complaint against the petitioner No. 1, but subsequently the petitioners being relatives, the matter was settled between the parties, and the accused/petitioner No. 1 has adequately compensated for the damage cause to the scooter of the petitioner No. 2/informant. As the matter has already been settled between the parties, the petitioner No. 2/informant has no further grievance against the accused/petitioner No. 1 and thus he does not want to pursue the case against the petitioner No. 1 pending before the learned Court of Judicial Magistrate First Class, Yupia. Therefore, the petitioner No. 2/informant wants to withdraw the aforesaid GR case no. 809/17 under section 279/338 IPC.

8. It is further submitted that the offences lodged against the accused/petitioner No. 1 is an offence against the individual person, i.e., the petitioner No. 2, and the same is not against the society at large. Moreover, as the matter has already been settled between the parties and as the petitioner No. 2 has adequately been compensated by the accused/petitioner No. 1 for the damage caused to the petitioner No. 2. Therefore, the informant/petitioner No. 2 having no further grievance against the petitioner no. 1 does not want to pursue the matter any further. Under such circumstances, the further proceeding of the case against the accuse/petitioner No. 1 before the learned Court of Judicial Magistrate First Class, Yupia would be a futile exercise and it would also amount to abuse of the process of law, thereby causing unnecessary harassment to both the petitioners and hence, prays for setting aside and quashing of the GR case no. 809/17 under section 279/338 IPC.

9. Mr. T. Ete, learned Additional PP for the State submits that since it was an accident case between the petitioner no. 1 and petitioner No. 2, and as the matter has already been amicably settled between the parties. Under such circumstances, the further proceeding of the case in the court would be a futile exercise and it would also cause unnecessary harassment to the parties. Moreover, the accident case involved with the petitioner No. 1 and 2 for which a case was registered under non-compoundable offence did not affect the society at large, under such circumstances, he has no objection if the present petition is allowed.

10. Upon consideration of the records and hearing the parties, it appears that the matter relates to the vehicular accident resulting into filing a complaint and subsequent submission of chargesheet against the petitioner No. 1 for offence

under section 279/338 of IPC. The record also reveals that the said accident case was amicably been settled between the parties and subsequently the deed of settlement dated 14.06.2024 was executed. And since the matter has already been settled, and the petitioner No. 2 having received adequate compensation for the damage caused to his scooty, has no further grievance against the accused/petitioner no. 1 and as such, he does not want to pursue the matter pending before the learned Court of Judicial Magistrate First Class, Yupia. However, as one of the offences registered against the accused/petitioner No. 1 being non-compoundable offence in nature, and as it is beyond the power of the Judicial Magistrate First Class to compound the case; it is, then, when the petitioners approached this Court by filing the present criminal petition. It is the case of the petitioners that since the matter has been amicably settled between the parties and the aggrieved/petitioner No. 2 having no further grievance against the accused/petitioner No. 1, does not want to pursue the matter any further and in such circumstances, the further proceeding of the case against the accused/petitioner No. 1 would be a futile exercise.

11. Mr. T. Ete, learned Additional PP has conceded to the above submission made by the learned counsel for the petitioners and in view of the above, the learned Additional PP has no objection if the prayer of the petitioners is allowed.

12. Under the circumstances, it appears that the continuation of the criminal case against the accused/petitioner No. 1 before the learned Court of Judicial Magistrate First Class, Yupia would only result in hardship to the parties and a waste of the precious judicial time of the court and loss of exchequer of the State.

13. In view of the above, I find sufficient force in the submission of the learned counsel for the parties with sound logic.

14. Further, in such circumstances, it is well settled that even though the offences lodged against the accused person is non-compoundable, the Higher court viz., the High Court or the Apex Court in exercise of their inherent special power may intersect the pending criminal proceedings.

15. In this regard, this Court may gainfully place a reliance on the principle of law enunciated by the Hon'ble Apex Court in the case of *Ram Gopal Vs. State of Madhya Pradesh* reported in (2021) SCC Online SC 384.

16. In view of the above referred decision of the Hon'ble Supreme Court and considering that the matter has been amicably settled amongst the parties *interse*, this Court is of the considered opinion that the pending of the criminal proceeding in the GR case no. 809/17 arising out of FIR dated 14.12.17 registered as Itanagar PS case no. 328/2017 under section 279/338 IPC can be quashed.

17. Accordingly, the GR case no. 809/17 arising out of FIR dated 14.12.17 registered as Itanagar PS case no. 328/2017 under section 279/338 IPC pending before the learned Court of Judicial Magistrate First Class, Yupia against the accused Shri. Patey Tajuk, is hereby quashed and set aside.

18. As a result, the accused person namely Shri. Patey Tajuk, is directed to be discharged.

19. With the above observations, this criminal petition stands allowed and

disposed of.

JUDGE

Comparing Assistant