

GAHC040008632024



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

Case No. : Crl.Petn./99/2024

Mrs Doter Sora Basar and Anr
Wife of Mr Marpak Basar, permanent resident of Basar Town, PO and PS Basar,
Leparada District, Arunachal Pradesh and presently residing at Polo Colony, PO and
PS Naharlagun, Papumpare District, Arunachal Pradesh

2: Ganguva Murtem alias Ganga Murtem
Age:
Occupation

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Vijay Jamoh

Advocate for the Respondent : P P of AP

**BEFORE
HONBLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 23.08.2024

Heard Mr. V. Jamoh, learned counsel for the petitioners. Also heard Mr. T. Ete, learned Additional Public Prosecutor for the State of respondent.

2. This application under Section 482 of Cr.P.C, 1973, has been jointly filed by the petitioners, namely, **Mrs. Doter Sora Basar and Mr. Ganguva Murtem @ Ganga Murtem**, praying for quashing of the criminal proceeding, namely, G.R. Case No. 13/1999 under Sections 323/354/448 of IPC corresponding to Naharlagun P.S. Case No. 13/1999, which is presently pending before the Court of learned Judicial Magistrate First Class, Capital Complex, Yupia.

3. The facts relevant for consideration of the instant criminal petition, in brief, are as follows:

(i) that on 15.02.1999, the petitioner No. 1 who was then known as Ms. Doter Sora lodged an FIR before the Officer-In-Charge of Naharlagun Police Station, *inter alia*, alleging that the petitioner No. 2 on the previous night i.e., on 14.02.1999 at about 10:30 PM broke into the study room of the petitioner No. 1 and attempted to rape her and strangulate her. However, when she raised hue and cry, the petitioner No. 2 escaped

therefrom.

(ii) on receipt of the aforesaid FIR Naharlagun Police Station Case No. 13/1999 was registered under Section 448/376/511 of IPC and investigation was initiated.

(iii) Ultimately, on completion of the investigation, charge-sheet was laid against the petitioner No. 2 bearing charge-sheet No. 13/1999, dated 19.04.1999.

4. Mr. V. Jamoh, learned counsel for the petitioners has submitted that though the charge-sheet has been laid in the year 1999 itself, however, the petitioner No. 2 has received summons from the trial Court only in the month of April of this year. It is also submitted by the learned counsel for the petitioner that both the petitioners were young at the relevant point of time and had feelings towards each other and on the date of alleged incident, the petitioner No. 2 after consuming alcohol had entered into the house of the petitioner No. 1. However, it is submitted by the learned counsel for the petitioner that the matter was amicably settled in the year 1999 itself between both the parties including the family members of the petitioners. It is also submitted by the learned counsel for the petitioners that at that time itself the customary ritual of sacrificing Mithun was also performed on reaching of amicable settlement between the parties and the police was also informed regarding the settlement arrived at between the parties.

5. The learned counsel for the petitioners has also submitted that in the year 1999 i.e., about 25 (Twenty-five) years ago both the petitioners were students and were un-married, however, now both of them have married and are peacefully enjoying their respective marital life. It is also submitted by the learned counsel for the petitioner that after receiving summons from the trial Court in the month of April this year, both the petitioners have again executed a mutual deed of agreement on 23.06.2024, a copy of which, the said mutual agreement is annexed as annexure-5 along with this criminal petition.

6. It is submitted by the learned counsel for the petitioners that the petitioner No. 1 does not want to pursue the criminal prosecution of the petitioner No. 2 and under such circumstances, it would be futile to proceed with the pending criminal case against the petitioner No. 2, as the possibility of conviction in the said case, in light of the settlement reached between the parties, is very bleak. The learned counsel for the petitioners therefore, submits that the criminal proceeding pending against the petitioner No. 2 considering the peculiar circumstances of this Court may be quashed.

7. In support of his submission, the learned counsel for the petitioners has cited the judgment of the Supreme Court of India in the case of ***Kapil Gupta vs. State of NCT of Delhi & Anr.***, reported in ***(2022) 0 Supreme (SC) 1108***.

8. On the other hand, Mr. T. Ete, learned Additional Public Prosecutor has fairly submitted that considering the fact that the alleged incident had occurred 25 (Twenty-five) years ago as well as considering the fact that the sole eye witness of the incident i.e., the petitioner No. 1 has arrived at a settlement with the petitioner No. 2 and there is unlikelihood that under such circumstances, the case would end in conviction of the petitioner No. 2.

9. The powers under Section 482 of Cr.P.C of this Court has to be invoked for securing the ends of justice and to prevent the abuse of process of Court. In the instant case, when admittedly the incident occurred 25(Twenty-five) years ago when both the petitioners were young and were students and had feelings towards each other and considering the fact that they have already arrived at amicable settlement between them and the petitioner No. 1 does not intend to pursue the criminal case pending against the petitioner No. 2, the prospect of the case in ending in conviction of the petitioner No. 2 is very bleak. Hence, this Court is of considered opinion that it would be futile to proceed with the criminal case pending against the petitioner No. 2, namely, G.R. Case No. 13/1999, which is arising out of Naharlagun P.S. Case No. 13/1999, which is presently pending before the Court of learned Judicial Magistrate First Class, Yupia.

10. Thus, this Court therefore, allows the joint petition filed by the

petitioners and quashes the proceedings of G.R. Case No. 13/1999 pending before the Court of learned Judicial Magistrate First Class, Capital Complex, Yupia, against the petitioner No. 2.

11. With the above observation, this criminal petition is accordingly allowed and stands disposed of.

JUDGE

Comparing Assistant