

GAHC040008742024



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

Case No. : Crl.Petn./101/2024

Karmar Loyi and 2 Ors

Son of Shri Jomkar Loyi, a permanent resident of Sipu Puyi, Aalo, PO and PS Aalo,
West Siang District, Arunachal Pradesh 2: Smti Toju Ete

Age:

Occupation :

Wife of Karmar Loyi

a permanent resident of Sipu Puyi
Aalo

PO and PS Aalo

West Siang District

Arunachal Pradesh

3: Jomkar Loyi

Age:

Occupation :

Son of Late Lido Loyi

a permanent resident of Sipu Puyi
Aalo

PO and PS Aalo

West Siang District

Arunachal Pradesh

VERSUS

The State of AP

represented by the PP of AP

Advocate for the Petitioner : Ligam Nochi, Idak Bam

Advocate for the Respondent : P P of AP,

**BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 07.11.2024

Heard Mr. L. Bam, learned counsel for the petitioners. Also heard Mr. T. Ete, learned Additional Public Prosecutor for the State.

2. This is a joint petition filed under Section 482 of the Code of Criminal Procedure, 1973, for compounding the non-compoundable offences charged sheeted against the accused petitioner No.1 and for quashing and setting aside G.R. Case No.115/2022(State of Arunachal Pradesh Vs. Karmar Loyi), arising out of Aalo P.S. Case No.55/2022 under Sections 498-A/323/506 of the Indian Penal Code pending before the Court of the Chief Judicial Magistrate, Aalo.

3. The petitioner No.1 is the accused in the above G.R. Case No.115/2022 arising out of Aalo P.S. Case No.55/2022; the petitioner No.2 is the victim and she is the wife of the accused petitioner No.1 and the petitioner No.3 is the informant who is the father of the accused petitioner No1. and father-in-law of the petitioner No.2 in the above G.R. Case.

4. The brief facts of the case is that on 27.09.2022, the petitioner No.3 lodged a written FIR against the petitioner No.1 before the Officer-in-Charge, Aalo Police Station *inter alia* alleging therein that the petitioner No.1 has physically assaulted him and the petitioner No.2. Based on the above written FIR, the police have registered the above mentioned Aalo P.S. Case under Sections 498-A/323/506 of the IPC and investigated into. After completion of the investigation, the I.O. of the case has laid charge-sheet into the case against the petitioner No.1 for commission of offence under Sections 498-

A/323/506 of the IPC and now the case is pending for consideration of charge before the learned Court of Chief Judicial Magistrate, Aalo.

5. Mr. Bam, learned counsel for the petitioners submits that since the petitioners are members of the same family being husband, wife and the father, they during the pendency of the case have amicably settled the matter and executed a Deed of Agreement on 15.07.2024. As per the Deed of Agreement dated 15.07.2024, the parties have mutually reconciled and settled the misunderstanding amongst them with a view to live a peaceful family life. As such, the informant and the victim have agreed to withdraw the case pending against the petitioner No.1 before the learned Court of Chief Judicial Magistrate, Aalo. It is further submitted that since the victim and the informant have no further grievance against the accused/petitioner No.1, they have agreed to cooperate for withdraw of the case against him. However, since one of the offences involved in the case is non-compoundable offence, especially section 498-A and the same is beyond the power of the learned Court of Chief Judicial Magistrate, the petitioners have filed the present petition under Section 482 of the Cr.P.C with a prayer for compounding of the case.

6. The learned counsel for the petitioners submits that the matter pertains to a matrimonial dispute between the husband/petitioner No.1 and the wife/petitioner No.2 and due to some misunderstanding between them, the petitioner No.3, who is the father of the petitioner No.1 and father-in-law of the petitioner No.2 has lodged the said FIR. However, since the matter has now been amicably settled amongst the parties and the accused/petitioner No.1 and the wife/petitioner No.2 are living happily with their 9 months old minor baby, the informant/petitioner No.3 and the victim/wife/petitioner No.2 do not have

any further grievance against the accused/petitioner No.1. It is submitted that under the circumstances, the further proceedings of the G.R. Case No.115/2022, pending before the learned Court of the Chief Judicial Magistrate, Aalo would be a futile exercise and an abuse of the process of law, hence, prays for quashing and setting aside the said G.R. Case No.115/2022.

7. The learned counsel for the petitioners further submits that since the case has arisen out of the matrimonial dispute between the accused/petitioner No.1 and his wife/petitioner No.2; hence, the case is a private in nature and do not have a serious impact on society at large; and as the matter has already been compromised and amicably settled amongst the parties, therefore, the petitioners prays for quashing and setting aside the above G.R. Case.

8. Mr. Ete, learned Addl. Public Prosecutor for the State submits that although the case was registered against the accused/petitioner No.1 under Sections 498-A/323/506 of the IPC, however, from the record, it appears that the said incident had arisen out of the matrimonial dispute between the accused/petitioner No.1 and the victim/wife/petitioner No.2. And due to such misunderstanding between the husband and wife, the petitioner No.3 who is the father of the petitioner No.1 and father-in-law of the petitioner No.2 has lodged the said FIR leading to filing of the charge-sheet against the accused/petitioner No.1. The learned Addl. P.P. further submits that since the incident took place between the known persons i.e., the husband and wife and it was not with any stranger or done due to any personal enmity with any intention to cause injury to the informant/father and the victim/wife. Moreover, the records shows that the matter has amicably been settled amongst the parties; the victim and the informant have agreed to cooperate to withdrawal of the case. Further, since the

matter has already been settled amicably amongst the parties and the offence registered against the petitioner No.1 has arisen due to the matrimonial dispute between the husband and wife and the same is not a serious one, he has no objection if this Court passes an appropriate order in exercise of its inherent power provided under Section 482 of the Cr.P.C.

9. In support of their submissions, the learned counsels for the parties have placed reliance upon the decision of the Hon'ble Supreme Court in the case of ***State of Madhya Pradesh Vs. Lakshmi Narayan & Ors.***, reported in ***(2019) 5 SCC 688***, the relevant paragraph 15 is reproduced herein below:

"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 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 307IPC 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 [Section 307](#) 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. "

10. Heard and considered the submissions of the learned counsels for the parties. I have also perused the record produced before this Court.

11. Upon hearing the learned counsels for the parties and on perusal of the record, it appears that the incident took place due to the matrimonial dispute between the accused/petitioner No.1 and the victim/wife/petitioner No.2 and due to the dispute between the petitioners No.1 and 2, the petitioner No.3 being the father of the petitioner No.1 and father-in-law of the petitioner No.2 has intervened, leading to filing of the said FIR against the petitioner No.1. The petitioners No.1, 2 and 3 being the husband, wife and the father/father-in-law of the petitioners No.1 and 2 respectively, it appears that the said FIR was lodged due to the matrimonial dispute and a serious misunderstanding between the parties. However, it is seen that during the pendency of the trial, the parties

have amicably settled the matter amongst them. It is further seen that as per the settlement agreement, the petitioner No.2 being the wife and the petitioner No.3 being the father of the accused/petitioner No.1 have forgiven him for his delinquency and have agreed to withdraw the FIR/complaint lodged against the petitioner No.1.

12. Since the dispute and the incident are between the husband, wife and the father, the same did not affect the society at large. Further, the parties have amicably settled the matter amongst them by executing a Deed of Agreement, whereby the victim/petitioner No.2 and the informant/petitioner No.3 have forgiven the accused/petitioner No.1 and have expressed that they do not want to pursue the case against the accused/petitioner No.1 and also agreed to pursue for compounding of the case. Under the circumstances, it appears that the continuation of the case before the trial Court would only cause hardship to all the parties who are the members of the same family and in such situation, it would be a wastage of precious judicial time and thus, it would only result in futile exercise.

13. In view of the above, I find sufficient force and logic in the submissions of the learned counsel for the petitioners, which has received full support of the learned Addl. P.P for the State respondent. Further, the submissions of the parties are being supported by the decision of the Hon'ble Supreme Court in the case of ***State of Madhya Pradesh Vs. Lakshmi Narayan &Ors. (Supra)***. In such circumstances, it is now well settled that even if the offence alleged against the accused is non-compoundable offence, the High Court or/ the Apex Court in exercise of their inherent power may intersect the pending criminal proceedings.

14. In view of the above decision of the Hon'ble Supreme Court and since the case having arisen out of the matrimonial dispute have amicably been settled amongst the parties *inter-se*, this Court is of the considered opinion that the G.R. Case No.115/2022(State of Arunachal Pradesh Vs. Karmar Loyi), arising out of Aalo P.S. Case No.55/2022 under Sections 498-A/323/506 of the Indian Penal Code, pending before the learned Court of Chief Judicial Magistrate, Aalo needs to be set aside and quashed for the interest of justice.

15. Accordingly, the above G.R. Case No.115/2022, arisen out of Aalo P.S. Case No.55/2022 under Sections 498-A/323/506 of the Indian Penal Code pending before the Court of Chief Judicial Magistrate, Aalo against the accused/petitioner No.1, namely; Karmar Loyi is hereby set aside and quashed.

16. With the above observations, this criminal petition stands allowed and disposed of.

Return the Trial Court's record.

JUDGE

Comparing Assistant