

GAHC040008792024



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

Case No. : Crl.Petn./102/2024

Tana Tagi and 2 Ors
Son of Shri Tana Kochi, resident of Yupia -I village, PO and PS Doimukh, Papumpare
District, Arunachal Pradesh 2: Gyamar Takar @ Bharat

Age:

Occupation :

Son of Late Gyamar Tajik
resident of Yupia -I village
PO and PS Doimukh
Papumpare District
Arunachal Pradesh

3: Ranjan Nath

Age:

Occupation :

Son of Shri Baleswar Nath
resident of Village Uriantola
PO and PS Lakhimpur
North Lakhimpur District
Assa

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : N Rama, T Rahul,N Kuma,N Kanu

Advocate for the Respondent : P P of AP,

**BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 03-10-2024

03.10.2024

Heard Mr. N. Rama, learned counsel for the petitioner. I have also heard Ms. L. Hage, learned Addl. P.P. for the State.

2. This is a joint petition filed by the petitioners under Section 482 of the Code of Criminal Procedure, 1973 praying for quashing of the G.R Case No.218/2019 arising out of Doimukh PS Case No.13/2019 under section 447/324 IPC.

2. The petitioner No.1 is accused Shri Tana Tagi; the petitioner No.2 is Shri Gyamar Takar/informant and the petitioner No. 3 is Shri Ranjan Nath/victim in the above Doimukh PS Case No.13/2019.

3. By filing this joint petition, the petitioners pray for setting aside the said G.R. Case No.218/2019 arising out of Doimukh PS Case No.13/2019 under section 447/324 IPC on the ground that the parties have already settled the matter amicably outside the Court and the informant and the victim has no more grievance against the accused petitioner No.1 and they do not want to pursue the matter any longer.

4. The case of the petitioners, in brief, is that the on 1.4.2019, the petitioner No.2 lodged a written FIR before the Doimukh Police Station against the petitioner No.1 inter alia alleging therein that the accused petitioner No.1 has physically assaulted his labour one Mr. Ranjan Nath/petitioner No.3. It is submitted that immediately after the alleged incident, the petitioner No.2 tried to compromise the case with the petitioner

No.1. However, the petitioner No.1 refused to compromise and instead he brought a lethal weapon with a view to beat with bamboo stick in addition to beating, kicking and slapping the petitioner No.3/victim. Based on the said FIR, the Police have registered the above-mentioned P.S. case against the petitioner No.1 being Doimukh PS Case No.13/2019 under section 447/324 IPC and investigated into.

5. It is further submitted after completion of investigation; the I.O has submitted the case into charge-sheet against the petitioner No.1 under 447/324 IPC. The learned Court of JMFC, Yupia on being found prima facie case against the accused petitioner No.1 for commission of offence punishable under section 324 IPC has framed charges against the petitioner No.1 under the said offences.

6. The learned counsel for the petitioner submits that in the meantime, during the pendency of the trial, the petitioner Nos. 1, petitioner No.2 and the petitioner No.3 have amicably settled the matter by executing a deed of agreement dated 5.2.2024. As per the said deed of agreement the parties have amicably settled the matter outside the Court and the informant petitioner No.2 and the victim/petitioner No.3 has no further grievance against the accused petitioner No.1 and hence, expressed that they do not want to pursue the matter further against the accused before the Court.

7. It is submitted that after execution of the said deed of agreement, the petitioners had informed the learned trial Court and made a request for compounding of the case. However, since the offence charged against the accused petitioner No.1 was non-compoundable offence and the trial Court does not have the power to compound the non-compoundable case; the petitioners have been given liberty to approach this Court. Hence, the

petitioners has filed this petition.

8. The learned counsel for the petitioner submits that since the case has already been settled between the parties and the informant and the victim has no more grievance against the accused petitioner No.1, the further proceeding of G.R. Case No.218/2019 before the learned trial Court would be a futile exercise and it would be a wastage of the Court's precious time and prays for setting aside the said G.R. Case No.218/2019 arising out of Doimukh PS Case No.13/2019 under section 447/324 IPC.

9. The learned counsel for the petitioner in support of his submission relied upon the case of ***Gian Singh vs State of Punjab and another reported in (2012) 10 SCC 303***, whereby the Hon'ble Supreme Court has directed for compounding the non-compoundable case.

10. Ms. L. Hage, learned Addl. P.P. while referring to the trial Court record submits that since the accused, informant and the victim have amicably settled the matter between them and as the victim has no further grievance against the accused petitioner No.1, under the circumstances, there is hardly a scope for conviction of the accused in the present case, and under the circumstances, the further proceeding of the case against the accused petitioner No. 1 before the learned JMFC, Yupia, in fact, would be a futile exercise and therefore, she has no objection if the prayer of the petitioners is allowed.

11. I have heard the learned counsel for the parties. I have also perused and considered the records and the contentions made by the parties.

12. Upon consideration of the records, it appears that the petitioner No.1 has physically assaulted the victim/petitioner No.3 and on his behalf

the petitioner No.2 being the employer of the victim has lodged the written FIR before the Doimukh PS which was registered as Doimukh PS Case No.13/2019 under section 447/324 IPC. It is discernible from the FIR itself that before lodging of the said FIR; the informant/petitioner No.2 had tried to settle the matter amicably with the petitioner No.1. However, the petitioner No.1 having refused to compromise the above PS case was registered. It is also seen that subsequently, the petitioner No.2 (informant), the petitioner No.3(victim) and petitioner No.1(accused) has amicably settled the matter outside the Court by executing a deed of agreement wherein the petitioner No.2 and petitioner No.3 has clearly stated that henceforth, they do not have any grievance against the petitioner No.1 and they also expressed that they want to withdraw the case against the petitioner No.1 pending before the court of JMFC, Yupia. On perusal of the deed of agreement it is also seen that the parties have settled the matter in order to maintain peace and tranquility amongst the parties being neighbours and relatives.

13. In view of the above, it appears that there is no probability of conviction of the accused petitioner No. 1 in the case, inasmuch as, the parties have already settled the matter and the victims does not have any further grievance against the accused. Under the given circumstances, it would be a futile exercise to proceed with the case and would amount to abuse of the process and wastage of Court's precious time.

14. Further, in such circumstances, it is now well settled that even though the offence is not compoundable offence, the High Court or the Apex Court in exercise of their inherent power may intercept pending criminal proceeding. In this regard, a reliance can be taken on the principle of law

laid down by the Hon'ble Apex Court in the case of ***Ram Gopal Verma-vs-State of Madhya Pradesh***; reported in 2021 SCC Online SC 384.

15. In view of the above decision and since the case has been amicably settled between the parties, the Court is of the considered opinion that proceeding of the criminal proceeding in G.R. Case No.218/2019 arising out of Doimukh PS Case No.13/2019 under section 447/324 of the Indian Penal Code pending proceeding need to be interfered with.

16. Accordingly, the G.R. Case No.218/2019 arising out of Doimukh PS Case No.13/2019 under section 447/324 of the Indian Penal Code against the accused petitioner No.1 Shri Tana Tagi is hereby set aside and quashed.

17. With the above observation and direction, this Criminal Petition stands allowed and disposed of.

Return the records.

JUDGE

Comparing Assistant