

GAHC040009422024



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

Case No. : Crl.Petn./110/2024

Shankar Tamang and 2 Ors
Son of Late P S Tamang, resident of E-251, Near Saint Francis School, Damsite,
Naharlagun, PO and PS Naharlagun, Papumpare District, Arunachal Pradesh 2:
Ambedkar Gupta
Age:
Occupation :

3: S Deben Sharma
Age:
Occupation

VERSUS

The State of Arunachal Pradesh
represented by the Special PP (SIT)

Advocate for the Petitioner : Gallen Taloh

Advocate for the Respondent : J Tsering

Linked Case : Crl.Petn./126/2024

Smti Neelam Mesap and 7 Ors
Age: 37
Occupation :
Address: Daughter of Shri Neelam Richo
resident of Dem Village
PO Deed

PS Yachuli
Lower Subansiri District
Arunachal Pradesh
2: Smti Elimi Tayeng
Age: 30
Occupation :
Address:wife of Shri Tarh Gombo
resident of Chimpu Village
PO RK Mission
PS Chimpu
Papumpare District
Arunachal Pradesh

3: Smti Likha Tamar
Age: 40
Occupation :
Address:Daughter of Shri Likha Tegi
residing near Fire Station
C Sector
Itanagar
PO and PS Itanagar
Arunachal Pradesh

4: Smti Charu Taja
Age: 35
Occupation :
Address:Daughter of Shri Charu Tago
resident of Tirpu village
PO Chambang
PS Palin
Kra Dadi District
Arunachal Pradesh

5: Toko Totum
Age: 34
Occupation :
Address:Son of Shri Toko Tegi
resident of Talo Village
Po and PS Yachuli
Lower Subansiri District
Arunachal Pradesh

6: Smti Toko Piku
Age: 30
Occupation :
Address:Daughter of Late Toko Tarium
resident of Yaglung village
PO and PS Palin

Kra Daadi District
Arunachal Pradesh

7: Charu Tach

Age: 29

Occupation :

Address: Son of Shri Charu Tago
resident of Tirpu village PO Chambang
PS Palin

Kra Daadi District
Arunachal Pradesh

8: Miss Hura Yania

Age: 29

Occupation :

Address: Daughter of Shri Hura allo
residing near Tarang Academy

PO RK Mission

PS Chimpu

Papumpare District

Arunachal Pradesh

VERSUS

The State of AP

Age: 0

Occupation :

Address: represented by its special PP

SIT

Advocate for : L Kurdu

Advocate for : J Tsering appearing for The State of AP: Advocate appearing for
respectively.

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

04.09.2024

By this common order, both the criminal petitions being Criminal Petition
Nos. 110(AP)/2024 and 126(AP)/2024 are taken up for final disposal.

2. Heard the learned counsel Mr. R. Sonar appearing for the petitioners. Also heard Mr. J. Tsering, the learned Public Prosecutor representing the State of Arunachal Pradesh.
3. The present applications are filed under Section 482 of the Code of Criminal Procedure (under Section 528 of the BNSS, 2023).
4. In both the petitions, prayer have been made for quashing the Supplementary Charge Sheet No.05/2022 (B) under Sections 420/468/471/34 of the Indian Penal Code submitted in Crime Branch P.S. Case No.07/2021 in respect of Petitioner No.1, Sri Shankar Tamang (in Criminal Petition Nos.110(AP)/2024 and Petitioner Nos.1 to 8 (in Criminal Petition No.126(AP)/2024).
5. I have considered the submissions made by the learned counsel of both sides.
6. The President of Arunachal Taekwondo Association (ATA) had lodged an FIR before police on 25th June, 2021. The Government of India had notified 63 sports disciplines for selecting meritorious persons for giving jobs in Government Departments. Taekwondo is one of the sports disciplines. The Government of Arunachal Pradesh has also accepted that decision of the Government of India.
7. The informant has alleged that some persons, not involved with Taekwondo, had used fake medals and participation certificates in various Departments.
8. The petitioner no.2 Ambedkar Gupta in Criminal Petition No.110(AP)/2024 was the General Secretary of Karate Association of India. On 19.03.2020, some people from Arunachal Pradesh contacted him and disclosed that they were associated with the game of Karate and they needed Form No.I to be issued by Karate Association of India, so that they can apply for Government jobs under the meritorious Sports person quota. The people from Arunachal Pradesh could not come to the office of the Karate Association located at New Delhi due to COVID-19. Karate Association of India maintained records about the persons who

participated in different games. The petitioner Ambedkar Gupta perused the records and authorized the President and General Secretary of Arunachal Karate-do-Association to issue Form No.I and they were also given the authority to put their signatures with the facsimile/digital signatures of Ambedkar Gupta.

9. Accordingly, the President and General Secretary of Arunachal Karate-do-Association issued the necessary Form No.I to different persons associated with the game of Karate.

10. The documents to that effect are available in the record.

11. Mr. Sonar has submitted that Karate is also a notified sports discipline. On the basis of which, meritorious Karate players are entitled to get Government jobs under the Rules. Mr. Sonar submits that the present petitioners have no connection with Taekwondo but being associated with sports of Karate, they are also entitled to be appointed in Government quotas. Mr. Sonar has pointed out that the entire scheme was not meant for Taekwondo only, their sports are also included in the Government schemes.

12. The learned Public Prosecutor had to agree with the submissions made by Mr. Sonar.

13. I have considered the submissions made by the learned counsel of both the parties.

14. After going through the scanned copy of the LCR and after going through the other materials available with the records, this Court is of the opinion that no case under Sections 420/468/471 of the Indian Penal Code has been made out against the present petitioners.

15. The guidelines for quashing of the criminal proceeding has been laid down by the Hon'ble Supreme Court in State of *Haryana and Ors. -versus- Bhajanlal and Ors.*, reported in *AIR 1992 SC 604*. Paragraph 102 of the said judgment is quoted hereunder:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the

grievance of the aggrieved party.

- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

16. In *Bhajanlal* (supra), the Supreme Court has cautioned that the power under Section 482 of the CrPC is to be sparingly used by the High Courts. The power under Section 482 of the CrPC is meant to prevent abuse of the process of the court.

17. Reverting back to the case in hand, this Court is of the opinion that the ratio laid down by the Hon'ble Supreme Court is applicable in the present case. I find that under the given facts and circumstances of the case, there is no possibility of future conviction in this case. Thus, it is a fit case for exercising the power under Section 482 of the CrPC.

18. In that view of the matter, the Supplementary *Charge Sheet* No.05/2022 (B) under Sections 420/468/471/34 of the Indian Penal Code submitted in Crime Branch P.S. Case No.07/2021 in respect of Petitioner No.1, Sri Shankar Tamang (in Criminal Petition Nos.110(AP)/2024 and Petitioner Nos.1 to 8 (in Criminal Petition No.126(AP)/2024, is set quashed and aside.

Both the Criminal Petitions stands disposed of accordingly.

JUDGE

Comparing Assistant