

GAHC040010032024



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

Case No. : Crl.Petn./117/2024

Nabam Sanglo @ Solo and Anr
Son of Shri Nabam Killing, a presently residing at Rono, Doimukh, PO and PS
Doimukh, Papumpare District, Arunachal Pradesh 2: Smti Tame Rina @ Tarh Rina
Age:
Occupation

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Nabam Saha

Advocate for the Respondent : P P of AP

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

ORDER

Date : 28.08.2024

Heard Mr. N. Saha, learned counsel for the petitioners. Also heard Mr. J. Tsering, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 482 of Cr.P.C, 1973, has been filed jointly by the petitioners, namely, **Shri Nabam Sanglo @ Solo (accused) and Smti Tame Rina @ Tarh Rina (victim)**, praying for quashing of the Session Case No. 09/2023 pending before the Court of learned Session Judge, Yupia.

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

(i) That on 17.03.2021, the victim (petitioner No. 2) lodged an FIR before the Officer-In-Charge of Banderdewa Police Station, *inter alia*, alleging that the petitioner No. 1 had forcefully subjected her to sexual intercourse without her consent on 10.03.2021 at around 7:00 AM.

(ii) On receipt of the said FIR, the Women Itanagar P.S. Case No.

32/2021 was registered and investigation was initiated.

(ii) Ultimately, on completion of investigation charge-sheet was laid under Sections 376/506 of IPC against the petitioner No. 1 Shri Nabam Sanglo @ Solo.

(iv) The petitioner appeared before the trial Court and when charges under Sections 376/506 of IPC were framed against him, same were read over and explained to him and he pleaded not guilty.

4. Mr. Saha, learned counsel for the petitioners has submitted that the petitioner No. 1 who is the brother-in-law of the petitioner No. 2 and in that way, they are related to each other. He has also submitted that in fact there was a consensual extra marital relationship between both the parties. The learned counsel for the petitioners submits that however, the husband of the petitioner No. 2 came to know about the incident then he along with other family members assaulted the petitioner No. 1 and force the petitioner No. 2 to lodged the FIR against the petitioner No.1. It is further submitted by the learned counsel for the petitioners that the petitioner No. 2 who is the victim does not want to pursue the matter, as it is a matter within a family and therefore, he submits that the pending criminal case against the petitioner No. 1 may be quashed by exercising inherent powers of this Court under Section 482 of Cr.P.C.

5. He also submits that on 11.10.2023, the petitioner No. 2 also appeared before the learned Session Judge, Yupia and submitted before the trial Court that she has compromised the matter outside the Court. However, learned Session Judge, fixed the matter on the next date for examination of the petitioner No. 2 who is also the complainant in this case.

6. The learned counsel for the petitioners has submitted that in view of the compromise reached between the parties, he prays for invoking the inherent powers of this Court under Section 482 of Cr.P.C, 1973 and quashed the pending criminal proceeding against the petitioner No. 1 for the ends of justice. He also submits that it is unlikely that the pending of criminal proceeding against the petitioner No. 1 would result in a conviction and it would be futile to proceed with the case.

7. On the other hand, Mr. J. Tsering, learned Public Prosecutor has submitted that though cases within a family which are in the nature of family disputes may be quashed even if they are non-compoundable in nature, however, it is no longer *res integra* that cases involving offences like rape and murder may not be quashed even if parties have reached an amicably settlement between them.

8. In support of his submission, he has cited a ruling of the Apex Court in the case of ***State of Madhya Pradesh Vs. Laxmi Narayan & Ors.,***

reported in **(2019) 5 SCC 688 10 of paragraph 13.**

9. I have considered the submissions made by the learned counsel for the petitioners as well as the learned Public Prosecutor and I have gone through the criminal petition filed by the petitioners along with annexures thereto.

10. It appears from record that in the FIR filed by the victim herself has made a categorical statement against the petitioner No. 1 therein. It also appears that in her statement recorded under Section 161 of Cr.P.C, 1973, as well as her statement recorded on oath by the Magistrate under Section 164 of Cr.P.C, 1973, she has made categorical implicating statement against the petitioner No. 1 implicating him for offence under Section 376 of IPC.

11. In the case cited by the learned Public Prosecutor i.e., ***State of Madhya Pradesh Vs. Laxmi Narayan & Ors.,*** (Supra), the Apex Court has laid down certain guidelines wherein, it has observed that the powers of the Court under Section 482 of Cr.P.C may not be exercised in those prosecution which involves heinous and serious offences of mental depravity of offences like murder, rape, dacoity etc., as such offences are not private in nature and have a serious impact on the society.

12. In view of above observation made by the Apex Court as well as in

view of the implicating materials on record, this Court is of considered opinion that merely because a settlement has been reached between the victim and the accused, same may not be ground for quashing the criminal proceeding pending against the petitioner No. 1. The only option available before him is to face the trial in Session Case No. 09/2023.

13. This Court therefore, is not inclined to invoke its power under Section 482 of Cr.P.C, for quashing the aforesaid case, as prayed for by the petitioners.

14. With the above observation, this criminal petition is accordingly, dismissed without issuing notice.

JUDGE

Comparing Assistant