

GAHC040010752024



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

Case No. : Crl.Petn./127/2024

Tassar Pradip and Anr
Son of Tassar Kame, resident of Palin, PO and PS Palin, Kra Daadi District,
Arunachal Pradesh

2: Nangram Ragam @ Tarang
Age:
Occupation

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : D. Saikia

Advocate for the Respondent : T. Ete, P P of AP

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

ORDER

Date : 23.08.2024

Heard Mr. D. Saikia, learned counsel for the petitioner. Also heard Mr. T. Ete, 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 Tassar Pradip and Shri Nangram Ragam @ Tarang**, praying for quashing the proceeding of G.R. Case No. 159/2006, which arose out of Itanagar P.S. Case No. 152/2006 under Sections 341/392/323 of IPC and 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 26.08.2006, the petitioner No. 1, namely, Shri Tassar Pradip, had lodged an FIR before the Officer-In-Charge of Itanagar Police Station, *inter alia*, alleging that on that day, at about 14:30 hours when he had parked his Bolero vehicle near in front of Akashdeep to call his brother, the petitioner No. 2 Shri Nangram Ragam @ Tarang gave him one

blow and snatched away the keys of vehicle from him and thereafter, a group of people having about 8(eight) members pelted stones on the vehicle of the informant and ran away.

4. Mr. D. Saikia, learned counsel for the petitioner has submitted that on receipt of the FIR, Itanagar P.S. Case No. 152/2006 was registered and after completion of the investigation, charge-sheet was laid only against the petitioner No. 2 under Sections 314/392/323 of IPC in the year 2008.

5. The learned counsel for the petitioner has submitted that though the charge-sheet has been filed in the year 2008, the charges are yet to be framed against the present petitioner. He also submitted that in the meanwhile, after the incident, the petitioner No. 1 had married the younger sister of the petitioner No. 2 and they are does relatives and they have amicably settled the dispute among them and had executed a deed of mutual settlement on 08.07.2024. He also submits that in view of the mutual settlement arrived at between the parties, there is unlikelihood of a conviction resulting in the pending of criminal case against the petitioner No. 2 and therefore, it would be futile to proceed with the criminal prosecution and he therefore, submits that for the interest of justice and to prevent the abuse of process of Court, the proceeding of G.R. Case No. 159/2006 should be quashed.

6. On the other hand, Mr. T. Ete, learned Additional Public Prosecutor has referred to the observation made by the Apex Court of India in the

case of ***State of Madhya Pradesh Vs. Laxmi Narayan & Ors.***, reported in ***(2019) 5 SCC 688*** and has submitted that though the offence under Section 392 of IPC falls within the category of serious offence, however, mere mentioning of Section may not be enough for not exercising the inherent power of this Court in appropriate cases.

7. He has fairly submitted that since the petitioners have approached this Court by filing joint application and since they are related to each other there appears to be unlikelihood of the trial resulting in a conviction.

8. I have considered the submissions made by the learned counsel for both the side and I have perused the materials on record. The Apex Court of India in the case of ***State of Madhya Pradesh Vs. Laxmi Narayan & Ors.***, (Supra) has observed as follows:

“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 or 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;

I15.4. Offences under Section 307 IPC 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. "

9. In the instant case, it appears that the allegation against the petitioner No. 1, the petitioner No. 2 is only of snatching away of keys of the vehicle, which the learned counsel for the petitioner has submitted that have been returned back on the date of incident. It also appears that only one blow was administered to the petitioner No. 1 by the petitioner No. 2 and in the meanwhile, they have become relatives.

10. It also appears that the petitioners have reached amicable settlement and have also executed a mutual deed of settlement and considering the nature of offence involved in this case, this Court is of considered opinion that the offence involved in this case is mainly directed against the petitioner No. 1 and no serious impact would be there on society, if the petitioner No. 1 chooses not to pursue the criminal case against the petitioner No. 2.

11. It also appears that in view of the amicable settlement arrived at between the parties, there is unlikelihood of the criminal proceeding pending against the petitioner No. 1 resulting in a conviction and this Court is therefore of considered opinion that it would be futile to continue prosecution of the petitioner No. 2 in G.R. Case No. 159/2006.

12. In view of above, for the ends of justice and to prevent the abuse of process of Court, this Court is of considered opinion that the G.R. Case No. 159/2006, which arose out of Itanagar P.S. Case no. 152/2006 and

presently pending in the Court of learned Judicial Magistrate First Class, Capital Complex, Yupia, is required to be quashed.

13. With the above observation, this Court accordingly, quashes the aforesaid proceeding and this criminal petition is accordingly allowed and stands disposed of.

JUDGE

Comparing Assistant