

GAHC040011732024



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

Case No. : Crl.Petn./135/2024

Smti Mimum Jerang and Anr
Wife of Shri Tabang Taboh, resident of Gumin Nagar, PO and PS Aalo, West Siang
District, Arunachal Pradesh. 2: Tabang Taboh
Age:
Occupation :
Son of Shri Talem Taboh
resident of Gumin Nagar
PO and PS Aalo
West Siang District
Arunachal Pradesh

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Kamal Saxena, Denzing Sonuwal, Mingkong Pertin, Eddie Payeng
Advocate for the Respondent : P P of AP,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

09.09.2024

Heard the learned counsel Mr. K. Saxena appearing for the petitioners.
Also heard Mr. J. Tsering, the learned Public Prosecutor representing the State

of Arunachal Pradesh.

2. This is a joint application filed by the petitioners under Section 482 of the Code of Criminal Procedure, 1973 praying for quashing setting aside the *Charge Sheet* No.14/2024 dated 20.05.2024 under Sections 341/324 & 506 of the Indian Penal Code, 1860 (corresponding to G.R. Case No.62/2024) arising out of PSG. WPS Case No.12/2024 under Sections 341/325/307/376 and 506 of the IPC pending in the court of learned Chief Judicial Magistrate, Pasighat, Arunachal Pradesh.

3. Both the petitioners were in love for a period of four years. The parents of the girl was against her relationship with the other petitioner on the ground that the other petitioner was already married. The girl did not listen to her parents and continued her relationship with the other petitioner. The girl started to reside separately in a rented house. She even agreed to be his second wife.

4. On 21.03.2024, the boy told the girl that she should not go to her village according to her earlier programme. As suggested, she decided to wait for him. About 2 P.M., he came to her house and asked her as to where she had spent the previous night. She told him that she was present in her rented house. But the boy did not believe her and started to assault her. He used the hammer to hit her legs and hands. The boy accused the girl that because of her conduct, he could not properly stay with his wife and children. The girl called her maternal uncle over phone. Her uncle sent his sons to her rented house. They took the girl to the hospital.

5. Now, both the girl and the boy, as petitioners, have come together to this Court. They have stated that they are still in love with each other and they will live together as a couple. Both of them have submitted that about three months prior to filing of this petition, they got married according to customary laws. They have submitted that since the case cannot be compounded in the

trial court, they have filed the present petition.

6. I have considered the submissions made by the learned counsel of both sides.

7. 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."

8. 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.

9. The ratio laid down by the Hon'ble Supreme Court is applicable in the present case.

10. This Court is of the opinion 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.

11. Considering the aforesaid facts, the *Charge Sheet* No.14/2024 dated 20.05.2024 under Sections 341/324 & 506 of the Indian Penal Code, 1860 (corresponding to G.R. Case No.62/2024) arising out of PSG. WPS Case No.12/2024 under Sections 341/325/307/376 and 506 of the IPC pending in the court of learned Chief Judicial Magistrate, Pasighat, Arunachal Pradesh is quashed and set aside.

The Criminal Petition stands disposed of accordingly.

JUDGE

Comparing Assistant