



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

Case No. : Crl.Petn./175/2023

Samuel Doruk
S/o Shri Tagen Rukbo Permanent resident of village- Yapgo, PO- Balek, PS Pasighat,
District East Siang, Arunachal Pradesh, Pin 791102

VERSUS

The State of AP and 4 Others
Represented by Public Prosecutor, Arunachal Pradesh, Naharlagun, A.P.

2:The Director General of Police
Age: 0
Occupation :
PHQ Chimpu Govt. of Arunachal Pradesh
Itanagar PO/PS- Itanagar A.P. Pin 79111

3:The Superintendent of Police
Age: 0
Occupation :
Pasighat District East Siang
PO/PS- Pasighat Arunachal Pradesh. Pin 791102

4:Officer In-Charge Police Station Pasighat
Age: 0
Occupation :
District East Siang PO/PS- Pasighat Arunachal Pradesh. Pin 791102 P

5:Kaling Doruk
Age: 62
Occupation :
S/o Shri Tamon Doruk Permanent and Present Address- Village- Tajum (05th Mile
Pasighat) District P.O and P.S- Pasighat Pin Code- 791102 Arunachal Pradesh

Advocate for the Petitioner : Sunil Mow

Advocate for the Respondent : P P of AP, Mr. O. Modi

**BEFORE
HONBLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 09-08-2024

Heard Mr. S. Mow, learned counsel for the petitioner. Also heard Mr. G. Tado, learned Additional Public Prosecutor for the respondent Nos. 1 to 4 and Mr. O. Modi, learned counsel for the private respondent No. 5.

2. By filing this application under Section 482 of the Cr.P.C., the petitioner has prayed for quashment of the G.R. Case No. 24/2024 corresponding to Pasighat P.S. Case No. 21/2021 under Sections 447/341/506 IPC, which is pending before the Chief Judicial Magistrate, Pasighat, East Siang District, on the ground that there is no material disclosing any offence either in the F.I.R. and the Charge-sheet against the petitioner.

3. The case emanates from an F.I.R. dated 28.02.2021 filed by the respondent No. 5 stating that on 28.02.2021, he was erecting boundary angle posts demarcated by the neutral bodies over his land situated at 5th Mile area when all of a sudden one *Shri Samuel Doruk*, the petitioner herein, who by relation is his elder brother's son, illegally trespassed into his plot of land situated at 5th Mile and thereby, scolded and abused him and caused disturbances in the construction works of boundary angle posts and also

threatened and chased away his labourers. It is alleged that the petitioner had pushed and pulled the informant and attempted to assault him in the presence of 3 (three) persons, namely, *Shri Osup Lego*, *Shri Tallom Tayeng* and *Shri Kadum Doruk*. It is further alleged the petitioner in earlier 2 (two) occasions on 19.11.2020 and 20.11.2020, threatened and chased away his labourers, which resulted in loss of 20 (twenty) number of angle posts and 35 (thirty-five) bags of cements. It is furthermore, alleged that due to the illegal act on the part of the petitioner, he had suffered huge loss. It is alleged that the land belongs to the informant, the respondent No. 5 herein, which has been settled in his favour as share of ancestral property.

4. On receipt of the F.I.R., the case was registered being Pasighat P.S. Case No. 21/2021 under Sections 447/427/341/506 IPC. After completion of the investigation the Police has laid the Charge-sheet against the petitioner under Sections 447/341/506 IPC.

5. It is submitted that no charges have been framed as on date and the matter is pending before the learned Chief Judicial Magistrate, Pasighat.

6. Mr. S. Mow, learned counsel for the petitioner submits that on the bare perusal of the F.I.R., no offence is disclosed against the petitioner. The dispute is with regard to ancestral land as the petitioner and the respondent No. 5 are the descendants of the same grandfather and the respondent No. 5 is the uncle of the petitioner. He submits that though the respondent No. 5 has made a statement that the land dispute has been settled on 17.10.2021 and 30.10.2021, the same are yet to be finally settled. Be that as it may, he submits

that since the land being the ancestral property which are yet to be settled, there is no question of trespassing. Therefore, the F.I.R., Charge-sheet as well as the consequential proceedings, being G.R. Case No. 24/2024 corresponding to Pasighat P.S. Case No. 21/2021 under Sections 447/341/506 IPC, pending before the Chief Judicial Magistrate, Pasighat, East Siang District, may be set aside and quashed.

7. Mr. G. Tado, learned Additional Public Prosecutor for the respondent Nos. 1 to 4 submits that from the record, it appears that the right, title and ownership of the land is yet to be finalised. Therefore, *prima facie* there may not be a trespass as the question of trespass would arise when a person enters into the private land of another person, without any authority under the law. Therefore, he submits that this Court may consider passing appropriate order as may deem fit and proper.

8. Mr. O. Modi, learned counsel for the respondent No. 5, on the other hand submits that the land at 5th Mile, Pasighat, has already been settled in favour of the respondent No. 5 as the share of the ancestral property. There is no dispute that the petitioner had entered into the land of the respondent No. 5 and threatened and chased away the labourers and also threaten the respondent No. 5 by trespassing into his land. The petitioner has committed the offence, for which, on proper investigation and on the basis of the statement of the witnesses, the Charge-sheet has been filed and the trial is pending. Therefore, there is no ground for quashing of the G.R. Case No. 24/2024 corresponding to Pasighat P.S. Case No. 21/2021 under Sections 447/341/506 IPC, pending

before the Chief Judicial Magistrate, Pasighat, East Siang District.

9. Due consideration has been given to the submissions of the learned counsels for the parties and also perused the scanned copy of the Trial Court Record produced by the learned Additional Public Prosecutor.

10. It is not disputed that the petitioner and the private respondent No. 5 are related by blood being descendants of the same grandfather. The record reveals that the land involved appears to be not finally settled between the parties although by referring to the agreements, Mr. Modi, learned counsel for the respondent No. 5 vehemently submits that the land involved has been settled in favour of the respondent No. 5, as a share of ancestral property and at the same time, the learned counsel for the petitioner has strenuously argued that the same is yet to be finalised.

11. The matter needs consideration in the present case, in my view, is not the ownership of the land. Since the charge is basically of trespassing under Section 447 of IPC, the material to be considered as to whether the petitioner has trespassed into the land of respondent No. 5.

12. On consideration of the record and the statements of the witnesses, it is seen that the petitioner has indeed entered into the land at 5th Mile, which is stated to belong to the respondent No. 5. There are materials to *prima facie* indicate that the petitioner has stopped the construction work on the land and the labourers were also chased away. Though the dispute appears to be purely of civil nature, the act of the petitioner cannot be lost sight of.

13. Having considered the materials available on record, this Court is of the view that the present case is not one of the cases where the inherent power under Section 482 of the Cr.P.C. is fit to be exercised.

14. In view of the above discussion made hereinabove and on considering the materials available on record, this court is not inclined to quash the proceedings of G.R. Case No. 24/2024 corresponding to Pasighat P.S. Case No. 21/2021 under Sections 447/341/506 IPC, pending before the Chief Judicial Magistrate, Pasighat, East Siang District.

15. Accordingly, the present criminal petition is dismissed.

16. However, it is made clear that any observation made by this Court in the present proceeding shall not be construed to be an observation on the merit of the criminal proceeding pending before the learned Chief Judicial Magistrate, East Siang District, Pasighat, as the guilt or otherwise of the petitioner/accused, would be established in the Trial.

17. The Criminal Petition is disposed of.

JUDGE

Comparing Assistant