

GAHC040012972023

2024:GAU-AP:912



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

Case No. : Crl.Petn./176/2023

Singhbom Taji and Anr.

S/o Shri Habung Lalia, presently residing at Yupia, PO/PS Doimukh, Papum Pare District, Arunachal Pradesh.

2: Tarun Comdir Tok

Age:

Occupation :

S/o Shri Tok Sera

permanent and present resident of Model village

PO/PS Naharlagun

Papum Pare District

Arunachal Pradesh

VERSUS

THE STATE OF AP

represented by the Public Prosecutor

Advocate for the Petitioner : Talin Dukam Rigia, Take Kyamdo, Niabin Soki, Tsering Lhamu

Advocate for the Respondent : P P of AP,

-BEFORE-

HON'BLE MR. JUSTICE BUDI HABUNG

03.10.2024

JUDGMENT & ORDER (ORAL)

Heard Mr. Talin Dukam Rigia, learned counsel for the petitioners and
Ms. L. Hage, learned Addl. PP for the State of Arunachal Pradesh.

2. This is a joint petition preferred by the petitioners, namely, (1) Shri Singhbom Taji; and (2) Shri Tarun Comdir Tok under Section 482 of the Cr.P.C., 1973 praying for compounding the non-compoundable offence between the petitioner Nos. 1 & 2 and for quashing of the G. R. Case No. 513/2015 arising out of Naharlagun P.S. Case No.52/2007 under Section 406/465/468/471/34 of the Indian Penal.

3. The petitioners; namely, Shri Singhbom Taji is the accused petitioner No. 1 and Shri Tarun Comdir Tok is the petitioner No. 2/informant.

4. The case of the petitioners, in brief, is that the petitioner No. 2 lodged a written FIR before the Officer-in-Charge, Naharlagun Police Station on 10.03.2007 stating therein that on 08.03.2007 at around 9.30 hours, the accused petitioner No. 1 has taken one motor cycle TVS Victor Red colour bearing registration No. AR-15-0217 from him near the National Cinema Hall, Naharlaun for an urgent work at Banderdewa but till date, he has not return the said motor cycle nor has given any information. It is further stated that as per his information, on the same day at 4.30 PM suddenly he found the accused petitioner No. 1 at 'G' Extension who stated that the said motor cycle has been taken away by one Bagang Tapa who had gone to Seppa.

5. Basing on the above written FIR, the Police had registered the above Naharlagun P.S. Case No. 52/2007 under Section 406/465/468/471/34 of the Indian Penal Code and the case was investigated into. After completion of the investigation, the case has been Charge-Sheeted against the accused petitioner No. 1 for the offence under Section 406/465/468/471/34 of the Indian Penal Code. The learned counsel for the petitioners further submits that the trial of the case has already begun

by framing charge against the accused petitioner No. 1 for commission of the offence under Section 406/465/468/471/34 of the Indian Penal Code.

6. The learned counsel for the petitioners further submits that while the case was still under the investigation, the parties have amicably settled the matter executed a deed of settlement on 17.07.2023. As per the said settlement deed, the petitioner No. 2/ the informant has no further grievance against the accused petitioner No. 1 and as such, he does not want to pursue with the case against the accused petitioner No. 1. The Deed of Settlement Agreement further contained that after mutually settling the matter, the parties have made a copy of the same available to the I.O. of the case. However, the I.O. of the case has failed to take any steps regarding the said mutual settlement and filed the Charge-Sheet before the Trial Court, as a result the trial of the case had begun.

7. The learned counsel for the petitioners submits that since the FIR was lodged by the informant/ accused petitioner No. 2 against the petitioner No. 1 due to some misunderstanding and subsequently, the said misunderstanding has been mutually settled between the parties and it was duly informed to the I.O. of the case. Further, the informant/petitioner No. 2 has no further grievance against the accused petitioner No. 1 and he expressed his desire to withdraw the case. Under the circumstances, the continuation of the proceeding of the case against the accused petitioner No. 1 before the learned Trial Court would be a futile exercise as in view of the informant/ accused petitioner No. 2 having no further grievance, there is no scope of conviction of the accused petitioner No. 1

8. The learned counsel for the petitioner further submits that after

lodging of the FIR due to misunderstanding, the parties being a friends have mutually settled the matter between them out of the Court in order to maintain peace and tranquillity amongst the parties.

9. Further, it is submitted that during the evidence, the informant/ the accused petitioner No. 2 has not implicated the accused petitioner No. 1 for commission of the charged offence. The only allegation made by the informant/ accused petitioner No. 2 against the accused petitioner No. 1 is that after his motor cycle being taken by the accused petitioner No. 1, the accused petitioner No. 2/ the informant went to the Naharlagun Police Station and told the Police officer by name, R. K. Phukan about the matter. However, he did not file any written FIR against the accused petitioner No. 1. But on the next day, when the said Police Officer, namely, R. K. Phukan, I.O of the case called the informant/ the petitioner No. 2 and told him that he had caught the accused petitioner who had stolen his bike. Accordingly, the accused petitioner No. 2 visited the Naharlagun Police Station and saw that the accused petitioner No. 1 was lodged in the Police lock up. Thereafter, the Shri R. K. Phukan forcefully made the informant/ accused petitioner No. 2 to lodged the FIR. Not only that, the informant/petitioner No. 2 has also deposed before the Court that the said Shri R. K. Phukan, I.O. had also demanded a sum of Rs.5,000/- for releasing his bike. The informant/petitioner No. 2 has also made an application before the I.O. of the case for releasing the accused on bail.

10. For the reasons, as stated above, the learned counsel for the petitioners prays for setting aside the G. R. Case No. 513/2015 pending before the Court of learned JMFC, Yupia arising out of Naharlagun P.S. Case No. 52/2007 under section 406/465/468/471/34 of the Indian Penal

Code against the accused petitioner No. 1.

11. The learned Addl. PP while referring to the above records as submitted by the learned counsel for the petitioners has submitted that since there is no allegation against the accused petitioner No. 1 by the informant/petitioner No. 2, there is hardly a scope for conviction of the accused in the present case, and under the circumstances, the further proceeding of the case against the accused petitioner No. 1 before the learned JMFC, Yupia, in fact, would be a futile exercise and therefore, she has no objection if the prayer of the petitioners is allowed.

12. I have heard the learned counsel for the parties. I have also perused and considered the records and the contentions made by the parties.

13. Upon consideration of the records, it appears that the informant/petitioner No. 2 had verbally informed the Police about taking away of his bike by the accused petitioner No. 1 and subsequently, on the next day, on being compelled by the I.O. of the case, the informant/petitioner No. 2 has lodged a written FIR against the accused petitioner No. 1. From the records, it also appears that subsequently after lodging of the written FIR, the informant/petitioner No. 2 himself has made an application before the Police for release the accused petitioner No. 1 on bail.

14. It is discernible from the record that during the pendency of the investigation of the case, both the petitioner Nos. 1 & 2 has amicably settled the matter outside the Court and as per the said settlement deed, the informant/petitioner No. 2 clearly expressed that he has no further grievance against the accused petitioner No. 1 and he does not want to pursue the matter any further against the accused petitioner No. 1.

Accordingly, a copy of the said mutual settlement deed was made available to the I.O. of the case with a request not to proceed further with the matter. However, by neglecting the said request, the I.O. of the case has Charge-Sheeted the accused against the accused/petitioner No. 1 and as a result of which, the learned Trial Court has framed the Charges against the accused petitioner No. 1 for the offences under Section 406/465/468/471/34 of the Indian Penal Code.

15. The record further revealed that trial of the case had begun and the informant/petitioner No. 2 has already given his evidence before the learned Trial Court. However, from the evidence of the informant/petitioner No. 2 it is seen that he has not implicated the accused petitioner No. 1 for commission of the charged offence. It is further discernible from the evidence on record that the informant/petitioner No. 2 has only informed at Naharlagun Police station about taking away of his bike by the accused petitioner No. 1 but he did not lodge any written FIR. However, on the next day, the I.O. of the case called the informant/petitioner No. 2 at police station and forcefully made him to write the FIR and also demanded a sum of Rs.5,000/- for release of his bike. The evidence also reveals that after 2-3 days, the informant/ petitioner No. 2 himself has made an application before the I.O. of the case for release of the accused petitioner No. 1 on bail.

16. The above fact and the evidence of the case reveals that the informant/petitioner No. 2 has not implicated the accused petitioner No. 1 for commission of any offence.

17. In view of the above, it appears that there is no possibility of conviction of the accused petitioner No. 1 in the case, inasmuch as, there

is no allegation or any evidence against him. Under the given circumstances, it would be a futile exercise to proceed with the case and would amount to abuse of the process and wastage of Court's precious time and loss of State ex-chequer.

18. Further, in such circumstances, it is now well settled that even though the offence is not compoundable offence, the High Court or the Apex Court in exercise of their inherent power may intercept pending criminal proceeding. In this regard, a reliance can be taken on the principle of law laid down by the Hon'ble Apex Court in the case of ***Ram Gopal Verma-vs-State of Madhya Pradesh***; reported in 2021 SCC Online SC 384.

19. In view of the above decision and since the case has been amicably settled between the parties, the Court is of the considered opinion that pendency of criminal proceeding in G.R. Case No. 513/2015 arising out of Naharlagun P.S. Case No. 52/ 2007 under Section 406/465/468/471/34 of the Indian Penal Code pending proceeding need to be interfered with.

20. Accordingly, the G.R. Case No. 513/2015 arising out of Naharlagun P.S. Case No. 52/2007 under Section 406 /465 /468 /471 /34 of the Indian Penal Code against the accused petitioner No.1 Shri Singhbom Taji is hereby set aside and quashed.

21. With the above observation and direction, this Criminal Petition stands allowed and disposed of.

Return the records.

JUDGE

Comparing Assistant