



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

Case No. : Crl.Petn./178/2023

1: Karken likar.
S/o Late Jikar Likar,
R/o Hiker Gumin,
P.O/P.S Aalo West Siang
District, Arunachal Pradesh.

2: Karku Likar
S/o Late Jikar Likar,
R/o Hiker Gumin,
P.O/P.S Aalo West Siang
District, Arunachal Pradesh.

VERSUS

THE STATE OF AP
through the Public Prosecutor, Arunachal Pradesh.

Advocate for the Petitioner : Mr. Bomnya Kamdak

Advocate for the Respondent : Ms. L. Hage, Addl. P P of AP

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

JUDGMENT

Date : 20-03-2024

Heard Mr. B. Kamdak, learned counsel for the petitioners. Also heard Ms. L. Hage, learned Addl. Public Prosecutor for the State of Arunachal Pradesh.

2) This petition under Section 482 of the CrPC, 1973 is filed by the petitioners seeking quashment of the Criminal Proceedings of G.R. Case No.105/2022,

under Section 380/506/384 of the Indian Penal Code, corresponding to Aalo P.S. Case/FIR No.50/2022, pending before the learned Chief Judicial Magistrate, Aalo, on the basis of the settlement between the petitioners.

3) The case of the Petitioner, in nut shell, is that the petitioner No.1 Sri Karken Likar has filed on FIR on 16.09.2022 against the petitioner No.2 Sri Karku Likar alleging that the petitioner No.2 is a drug addict and many cases are pending against him. The petitioner No.2 keep on demanding money for purchasing drug, as he is an addict and a unemployed spoiled person and in order to meet his desire of consumption of drugs, he is constantly torturing their mother and there is a likelihood of killing their mother, as the petitioner No.2 has demanded Rs.70,000/-. Therefore, there is a risk of life of the family members. The details of the stolen cash as well as other articles have been also mentioned in the said FIR.

4) On receipt of the FIR, a case was registered being Aalo P.S. Case No.50/2022, under Sections 380/506/384 of the Indian Penal Code against the petitioner No.2. During the course of investigation, the petitioner No.2 was arrested and subsequently released on bail, wherein the mother of the petitioners was the bailor. On completion of the investigation, the charge sheet was laid on 18.01.2023, under Sections 380/506/384 of the Indian Penal Code. The learned Trial Court has framed the charges against the petitioner No.2 and it is stated that the case is at the stage of examination of prosecution witnesses.

5) Mr. B. Kamdak, learned counsel for the petitioners submits that the FIR was filed due to disturbance created by the petitioner No.2, against the family members, as he used to sold off the properties of the family, without consent of other family members. The two petitioners are brothers. During the pendency of the criminal proceedings, the petitioners have realized that the complaint was made out of anger against the petitioner No.2. Therefore, they have settled the

matter amongst the petitioner No.1 and petitioner No.2 and their mother Smti. Sogi Likar. Mr. Kamdak, the learned counsel further submits that since the matter has been amicably settled, between the brothers along with their mother, the continuance of the criminal proceedings may be an abuse of the process of law. Therefore, he submits that the criminal proceedings, pending before the learned Chief Judicial Magistrate, Aalo may be quashed, as the petitioners have entered into an agreement, being the real brothers and decided to maintain peaceful family life and they would look after their mother.

6) On the other hand, Ms. L. Hage, learned Addl. Public Prosecutor for the State submits that as per the records, the petitioner No.2 is a drug addict and he appears to be a habitual offender and as such quashing of the criminal proceeding may not be in the interest of justice, as the menace of drug is against the society. Therefore, she submits that this is not a fit case to be quashed by invoking the inherent power of this Court under Section 482 of the Cr.P.C.

7) Due consideration has been extended to the submissions of learned counsel for the parties and also examined the Trial Court Record.

8) Undisputedly, the petitioners are the real brothers. It is seen that the FIR was filed alleging that the petitioner No.2 has created disturbance and also alleging to have tortured the mother of the petitioners. On careful perusal of the record, it reveals that though the allegation of theft and criminal intimidation was alleged against the petitioner No.2, in fact the real act was of torture against the mother of the petitioner Nos.1 & 2, by petitioner No.2 by demanding money.

9) Considering that the petitioners are real brothers and they have settled the misunderstanding between them involving their mother and have entered into a settlement by way of an affidavit on 23.08.2023, this Court is of the

considered view that the dispute being pre-dominantly private, particularly in between the brothers, the continuance of the criminal proceedings, in the present case would be an abuse of the process of law. The petitioner Nos.1 & 2 along with their mother have decided to mutually and amicably settled the matter for the interest of the family and decided to have a cordial family relation. Thus, in the considered view of this Court, the chances of conviction are remote and bleak in the present case.

10. In the case of State of Madhya Pradesh vs. Laxmi Narayan, reported in 2019 (5) SCC 688, the Hon'ble Apex Court has held, which is reproduced here-in-below:

“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;

15.4. 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 impart 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.”

11) In view of discussions made here-in-above and the observation of the Hon'ble Apex Court and considering that the informant as well as the accused i.e. the petitioners are brothers and on active involvement of their mother, they have settled the matter amicably and decided to maintain cordial relationship among themselves, I am of the considered view that the present case is one of the cases, wherein the inherent power of this Court, under Section 482 of the CrPC, 1973 can be invoked.

12) Accordingly, the Criminal Proceeding in G.R. Case No.105/2022, under Section 380/506/384 of the Indian Penal Code, pending before the learned Chief Judicial Magistrate, Aalo is quashed.

13) The Criminal Petition stands allowed and disposed of.

JUDGE

Comparing Assistant