

GAHC040014102024



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

Case No. : Crl.Petn./183/2024

Dongda Talam @ Dongda Taring and 2 Ors
Son of Dongda Tayum, permanent resident of Village Parsi Parlo, PO and PS
Koloriang, Kurung Kumey District, Arunachal Pradesh. 2: Giogi John
Age:
Occupation :
Son of Shri Giogi Tare
Village Koloriang PO and PS Koloriang
Kurung Kuemy District Arunachal Pradesh.

3: Smti Lingam Kamcham
Age: Occupation :
Daughter of Goli Kamcham
present resident of Ganga Market
near SP Office Itanagar permanent village Kamcham
PO and PS Likabali Lower Siang District Arunachal Pradesh

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Begi Taba,
Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

24.10.2024

Heard Mr. B. Taba, learned counsel for the petitioners. Also heard Ms. H. Laxmi,

learned Additional PP, Arunachal Pradesh.

2. This is an application filed under Section 528 of the BNSS, 2023 praying for setting aside and quashing the Itanagar Police Station Case No. 246/2012 registered as GR No. 411/2012 under Sections 380/34 of IPC pending for trial before the learned court of Judicial Magistrate First Class, Capital Complex at Yupia.
3. It is on record that after the registration of the FIR, the case was investigated by the Investigating Officer and Charge Sheet was laid against the petitioner Nos. 1 and 2 vide Charge Sheet No. 270/12 dated 26.10.2012 in connection with Itanagar Police Station Case No. 246/2012 under Section 380/34 of IPC.
4. In the F.I.R. it is alleged that a gas cylinder has been stolen by the petitioner Nos. 1 and 2 from the premises of the informant i.e. petitioner No. 3.
5. This present petition is jointly filed by the informant and the accused persons. The petitioner Nos. 1 and 2 in the present application is the accused named in the FIR filed by the petitioner No. 3 informant.
6. The present petition is filed in a backdrop that the complainant and the accused had settled the matter amicably between them and therefore, this court in exercise of power under Section 528 of BNSS should quash the criminal prosecution as the offences charged are not compoundable under the provision of BNSS.
7. It is also on record that subsequent to filing of the charge-sheet, the petitioners have mutually settled the matter vide settlement agreement dated 04.09.2024, which is annexed to the petition as Annexure III. Annexure III reflects that the petitioners have amicably settled their disputes.
8. The power under Section 528 of BNSS, 2023 is an inherent power and such

inherent power can be exercised to quash a criminal proceeding or a criminal complaint but while doing so the court is to follow certain principles. Such power can be exercised, amongst others, when the offences alleged are overwhelmingly and predominantly civil in character or when such dispute arises out of matrimonial relationship or family disputes and the parties have resolved the entire disputes amongst themselves. While exercising such directory power it is to be seen that such offences if compromised shall not affect the society at large.

9. Coming to the case in hand, from the materials available on record including the charge sheet, and the settlement agreement, shows that the offences do not involve any heinous or serious offence and that if the offences are allowed to be compounded that will have no serious impact on the society, inasmuch as the parties have already amicably resolved amongst themselves.
10. In the aforesaid backdrop, this court is of the view that this is a fit case where the power under Section 528 of BNSS, 2023 can be exercised to set aside and quash the criminal prosecution in question on being amicably settled.
11. Accordingly, this petition is allowed by setting aside and quashing the criminal prosecution initiated on the basis of Itanagar Police Station Case No. 246/2012 registered as GR No. 411/2012 under Sections 380/34 of IPC pending for trial before the learned court of Judicial Magistrate First Class, Capital Complex at Yupia.

JUDGE

Comparing Assistant