

GAHC040014342023



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

Crl.Petn./194 (AP)/2023

Shri Pema Meyor,
S/O Late Harjit Singh (Meyor), age
about 35 years, Permanent resident
Tribal Colony, PO/PS- Tezu, District
Lohit, Arunachal Pradesh.

Shri Palden Ngoduk, age about
41 years, S/O – Late Lobsang Namgal, permanent
resident of Tibetan Refugee Camp No. III,
house No. I, Tezu, Lohit District,
Arunachal Pradesh.

Shri Mohammad Saimuddin, age about 36 years,
S/O – Shri Mohammad Nur Hussan, resident of
Tribal Colony, PO/PS- Tezu, Lohit
District, Arunachal Pradesh.

Shri Mohammad Sarfuddin, age about 34 years,
S/O Shri Mohammad Nur Hassan, resident of
Tribal Colony, PO/PS- Tezu, Lohit
District, Arunachal Pradesh.

.....Petitioners.

-Vs.-

State of Arunachal Pradesh, represented
through the Public Prosecutor, Government
of Arunachal Pradesh.

.....Respondent

**BEFORE
HON'BLE MR. JUSTICE KARDAK ETE**

For the Petitioners : Mr. J. Jini, Advocate.

For the Respondent : Ms. L. Hage,
Addl. Public Prosecutor
State of Arunachal Pradesh

Date of Hearing : 19.01.2024

Date of Judgment & Order : 19.01.2024

JUDGMENT & ORDER(ORAL)

Heard Mr. J. Jini, learned counsel for the petitioner. Also heard Ms. L. Hage, learned Additional Public Prosecutor for the State of Arunachal Pradesh.

2. This is an application under Section 482 of Cr.P.C, 1973, praying for quashing of the criminal proceedings of G. R. Case No. 57/2013 under Sections 452/326/34 IPC, pending before the Court of learned Chief Judicial Magistrate, Tezu, on the basis of the settlement/compromise between the parties.

3. The case set up by the prosecution is that the informant (petitioner No. 3 herein) has lodged an FIR on 12.08.2013 alleging that at around 11:50 hours two Lama persons forcefully entered their house situated at Tribal Colony/Mandal Colony, Tezu, armed with Dao and Fasul and assaulted them without any fault or provocation from them and have chopped off the left wrist of younger brother of the informant, namely, Shri Sarfuddin and also cut the left little finger. Thereafter, the accused fled away. The informant stated that he had

ran away from his house to save his life and after few minutes when he came back to his house, he found his brother with chopped hand and rushed him to the Tezu Hospital.

4. In pursuant to the FIR dated 12.08.2013, the case was registered being Tezu P.S. Case No. 57/2013 under Sections 452/326/34 IPC. Petitioner Nos. 1 & 2 were arrested and later released on bail. On completion of the investigation, Charge-Sheet was filed on 08.04.2015 and the case is pending for appearance of the accused(s) before the learned Chief Judicial Magistrate, Tezu.

5. Mr. J. Jini, learned counsel for the petitioners submits that the accused(s)/petitioner Nos. 1 & 2 and the informant/victim, petitioner Nos. 3 & 4 are residing in the same locality. Being the neighbors immediately after the registration of the FIR on 09.09.2013, they have compromised the case between them and the same was submitted to the learned Judicial Magistrate First Class, Tezu vide application dated 09.09.2013 stating that they have compromised the matter and the accused i.e., the petitioner Nos. 1 & 2 had borne the medical expenditure for treatment of the petitioner Nos. 3 & 4. However, in view of the offences under Section 452/326 not being compoundable, the matter could not be compounded even after compromise between the parties. Thereafter, on 07.10.2023, the petitioners have finally settled the matter and entered into a deed of settlement. Now the parties have amicably resolved the matter under the guidance of the family, relatives and elders of both the parties, as the offence committed by the petitioner Nos. 1 & 2 is accidental in nature and there is no more enmity and ill will towards each other and they are now living peacefully as being the neighbors at Tezu. Therefore, he prays that the present criminal petition may be allowed by

quashing the criminal proceedings in G.R. Case No. 57/2013, pending before the Court of learned Chief Judicial Magistrate, Tezu, as there is no chance of conviction and the trial would be rather futile and would be an abuse of process of law.

6. Ms. L. Hage, learned Additional Public Prosecutor submits that offence being private in nature and the parties have already compromised/settled the matter amongst themselves, the proceedings of the present case would be futile one and chance of conviction is bleak and remote. Thus, she fairly submits that this Court may pass appropriate order as it deem fit and proper.

7. I have considered the submissions of the learned counsel for the parties and also perused the case record.

8. On consideration of the materials available on records, it reveals that the petitioner Nos. 1 & 2 have entered the house of the petitioner Nos. 3 & 4 with a lethal weapon like Dao and inflicted grievous injuries by chopping off the left 4(four) fingers of the petitioner No. 4. The petitioner No. 3 was also inflicted with minor injury. The offences are serious in nature, in fact.

9. It is noticed that the petitioner Nos. 1 & 2 had borne the entire expenses of the petitioner Nos. 3 & 4 which were incurred for their medical treatment. It is seen that the parties have settled the matter after the case was registered on 09.09.2013 and finally on 07.10.2023, whereby, the parties have amicably settled the matter by way of deed of settlement and reportedly living peacefully and harmoniously as neighbors. On perusal of the settlement deed, this Court finds that the settlement has been entered between the parties voluntarily

without there being any coercion.

10. In that circumstances, this Court is of the considered view that the continuation of the criminal proceedings of G. R. Case No. 57/2013 under Sections 452/326/34 IPC, pending before the Court of learned Chief Judicial Magistrate, Tezu would be futile one, and it appears that there is a less chance of conviction. However, one cannot be lost its sight of the fact that the petitioner No. 4 has lost his left 4(four) fingers, which cannot be compensated. Having considered the facts and circumstances, this Court deem it appropriate to grant monetary compensation to the victim though such compensation may not be, in any case, sufficient enough to bear the loss and suffering.

11. The quashment of the criminal proceedings on the basis of the compromise under Section 482 of Cr.P.C has been enunciated by the Hon'ble Supreme Court. After consideration of earlier decisions, in the Case of ***State of Madhya Pradesh vs. Laxmi Narayan*** reported in ***2019 5 SCC 688*** the Hon'ble Supreme Court has held which is reproduced herein 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 impact 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.

12. Having considered the facts and circumstances of the present case and considering the fact that the petitioners are neighbors and are living harmoniously and peacefully after settlement of the matter and in view of the law laid down by Hon'ble Supreme Court, this Court is of the considered opinion that present case is one of the cases wherein inherent power of this Court under Section 482 of Cr.P.C is fit to be invoked.

13. In view of the above, the criminal proceedings in G. R. Case No. 57/2013 under Sections 452/326/34 IPC, pending before the Court of learned Chief Judicial Magistrate, Tezu is hereby quashed subject to the payment of Rs. 2,00,000/- (Rupees Two Lakhs) only to the petitioner No. 4 by the petitioner Nos. 1 and 2 within 2(two) months from today.

14. The criminal petition stands allowed and disposed of accordingly.

JUDGE

Comparing Assistant