

GAHC040015302024

2024:GAU-AP:1008



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

**Case No. : Crl.Petn./193/2024**

Techi Nekam and 3 Ors

Son of Shri Techi Niglo, a resident of Ganga Basti, Itanagar, PS Itanagar, Papum Pare District, Arunachal Pradesh.

2: Techi Butum

Age:

Occupation :

Son of Shri Techi Tania  
a resident of Ganga Basti  
Itanagar  
PS Itanagar  
Papum Pare District  
Arunachal Pradesh.

3: Bikram Gingba

Age:

Occupation :

Son of Taw Rai  
a permanent resident of Nacho village  
PO and PS Nacho  
Upper Subansiri District  
Arunachal Pradesh.

4: Smti Toko Jasmine

Age:

Occupation :

Wife of Shri Talo Potom  
a resident of ESS Sector  
Itanagar  
PS Itanagar  
Papum Pare District  
Arunachal Pradesh

VERSUS

The State of AP  
represented by the PP of AP

**Advocate for the Petitioner** : Sumit Chhetri, Risso Aking, Gyamar Jeevan, Taying Nega, T Zim

**Advocate for the Respondent** : P P of AP,

**BEFORE  
HONOURABLE MR. JUSTICE BUDI HABUNG**

**JUDGMENT & ORDER (Oral)**

**Date : 13-11-2024**

Heard Mr. Sumit Chhetri, learned counsel for the petitioners. I have also heard Mr. G. Taloh, learned Additional PP for the State of AP.

**2.** This is a joint petition filed under Section 482 of the Criminal Procedure Code, 1973 (corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) praying for quashing of the chargesheet No. 171/2017 dated 16.07.2017 under section 279/338 IPC and its corresponding proceeding being GR case no. 111/2017 arising out of Itanagar PS case no. 38/2017 under section 279/338 of IPC pending before the Court of the Judicial Magistrate First Class, Yupia.

**3.** The petitioner no. 1, Shri. Tech Nekam, is the informant; the petitioner no. 2, Shri. Tech Butum, is the victim/pillion rider; the petitioner No. 3, Shri. Bikram Gingbawas is the driver of the motorcycle, (accused No. 1) and the petitioner no. 4, Smti. Toko Jasmine, is the accused no. 2 in GR case No. 111/2017 arising out of the Itanagar PS case no. 38/2017.

**4.** The case of the petitioner is that on 22.02.2017, a written information was given to the Officer-in-Charge, Itanagar PS by the petitioner no. 1 stating that while the petitioners No.2 and 3 were on their way to residence by a motor cycle driven by the petitioner No.3, they were hit by the Nissan Terrano vehicle driven by the respondent no. 4 due to which the petitioner no. 2 (victim) and the petitioner no. 3 received injuries and were admitted in the hospital. Based on the above written information, a case being Itanagar PS case no. 38/2017 was registered under Section 279/338 IPC and investigated into.

**5.** The learned counsel for the petitioners submits that immediately after the occurrence of the incident and during the medical treatment of the injured victim, the matter was amicably settled amongst the parties whereafter, the accused No. 2/petitioner no. 4 had given all the support and assistance and had borne the medical expenses of the victim for his treatment. On entering such mutual settlement and on receipt of such support and assistance from the petitioner no. 4; the victim/petitioner no. 2 and the informant petitioner no. 1 have forgiven the accused petitioner nos. 3 and 4. Thereafter, the informant/petitioner no. 1 had verbally intimated to the IO of the case that since the matter has mutually been settled, they do not want to proceed with the case and requested him not to proceed further with the case.

**6.** After such settlement and information to the IO of the case, the petitioners were under the impression that the IO of the case had closed the further proceedings of the case. However, to the utter shock and surprise of the petitioners, after a lapse of almost about 6 years from the date of occurrence of the said incident, suddenly the petitioner no. 4 received a summon from the learned Court of Judicial Magistrate First Class, Yupia wherein she was directed

to appear before the said Court on 22.08.2024 in connection with the said Itanagar PS case no. 38/2024 under section 279/338 IPC. And on receipt of such summon, the petitioners came to know that the IO of the case had continued with his investigation and on completion of the investigation, he had submitted the case into chargesheet against the accused petitioner nos. 3 and 4 for commission of offence under section 279/338 IPC.

**7.** It is submitted that after settling the matter mutually amongst the parties, they were living their life happily and peacefully; however, as soon as they came to know about the filing of the chargesheet and issuance of summon to the accused petitioner no. 4, the petitioners over and again had come together and reduced their earlier mutual settlement into agreement by executing a "Deed of Compromise" on 11.11.2024, whereby it is stated that the parties have mutually settled the matter amongst themselves and that the informant/petitioner no. 1 and the victim/petitioner no. 2 while acknowledging the help and support extended to the victim by the accused petitioner no. 4 for their medical bills and expenses, have expressed that since the matter has already been settled some 6 years back and as they do not have any further grievance against the petitioner nos. 3 and 4, they do not want to pursue the aforementioned case against the petitioner nos. 3 and 4 any further. However, as the Court of the Judicial Magistrate First Class, Yupia does not have the power to compromise the non-compoundable offence especially section 279 IPC, the petitioners approached this Court with the prayer for setting aside and quashing of the proceeding of GR case no. 111/2017 arising out of Itanagar PS case no. 38/2017 under section 279/338 of IPC pending before the learned Court of Judicial Magistrate First Class, Yupia.

**8.** In support of his submission, the learned counsel for the petitioner has relied upon the decision of the ***Hon'ble Delhi High Court in the case of Ramandeep Singh Vs. The State NCT of Delhi &Anr.,*** reported in ***2024 Supreme (Online) (DEL) 25820***, whereby at Para 6 it has been held that:

*“6. Keeping in view the fact that the respondent no. 2 does not wish to pursue his complaint any further, as also the settlement arrived at between the parties, I find that no useful purpose shall be served in continuing with the proceedings of the present FIR as it would create further acrimony between the parties and will be an unnecessary burden on the State exchequer.”*

The judgment further held at para 7 which is reproduced herein below;

*“7. Guided by the principles enunciated by the Supreme Court in its judgments in Gian Singh Vs. State of Punjab, (2012) 10 SCC 303; Parbathbhai Aahir @ ParbatbhaiBhimsinbhaiKamur& Ors. Vs. State of Gujarat & Ors (2017) 9 SCC 641; and, State of Haryana & Ors Vs. Bhajan Lal & Ors, 1992 Supp (1) SCC 335, this Court deems it appropriate, in the interest of justice, to exercise its inherent powers under Section 482 of the Cr.PC to quash the FIR and all the proceedings emanating therefrom.”*

**9.** The learned counsel for the petitioners further submits that the matter pertains to the Motor Accident case between the petitioners wherein the petitioner no. 2/victim has received some minor injury leading to the registration of the case and subsequently submission of the chargesheet and since the matter was already settled between the parties immediately after the occurrence of the accident some 6 years back and thereafter the parties have also informed the IO of the case not to proceed further with the case, the petitioner was under the impression that the case has been closed. He further

submits that the maximum punishment of offences under Section 279 is 6 (six) months and as per the provision under section 468 of Cr.PC, there is a bar to take cognizance after a lapse of the period of limitation. The offences charge sheeted against the accused petitioner nos. 3 and 4 is under section 279 IPC, the maximum punishment is upto 6 months and as per the provision under section 468 (2) (b)Cr.PC, it now barred by efflux of time. The section 468 (2) is reproduced herein below:

*“(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.*

*(2)The period of limitation shall be-*

*(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year”*

**10.** In the instant case, the maximum punishment for offences under section 279 IPC is 6 months. However, the case has not yet been taken cognizance despite expiry of about 6 years. In view of the above provision also, the present case cannot be taken into cognizance.

**11.** The learned counsel for the petitioner further submits that since the matter has been amicably settled amongst the parties and the victim and the accused/petitioners are living happily and as the informant/petitioner no. 1 and the victim/petitioner no. 2 does not have any further grievance against the accused petitioner Nos. 3 and 4, under the circumstances, the further proceeding of the GR case no. 111/2017 pending before the learned Court of Judicial Magistrate First Class, Yupia would be futile exercise and abuse to the

process of law, hence, prays for quashing and setting aside of the said GR case no. 111/2017.

**12.** Mr. T. Ete, learned Additional PP for the State fairly submits that although the case was registered against the accused petitioner nos. 3 and 4 under section 279/338 IPC; however, from the record it appears that the said motor accident had taken place as one of the accused/ petitioner No.4 was under the influence of alcohol while driving. However, realizing her mistakes, the accused petitioner No.4 immediately after the accident, had cooperated and extended all assistance to the victim including extending the financial assistance to the victim for his treatment for the injury caused in the said accident.

**13.** The learned Additional PP further submits that the matter has already been amicably settled amongst the parties and the victim and the informant have no further grievance against the accused petitioner nos. 3 and 4, they rather have agreed to cooperate for withdrawal of the case. Moreover, as the case has arisen due to the motor vehicle accident, and the same is not a serious one, he has no objection if the Court passes an appropriate order in exercise of its inherent power conferred under section 482 of Cr.PC.

**14.** In support of their submission the learned counsel for the parties has also placed on reliance upon the decision of the Hon'ble Supreme Court in the ***State of Madhya Pradesh Vs. Laxmi Narayan and Ors.***, reported in **(2019) 5 SCC 688**, wherein it was observed 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 and when the parties have resolved the

entire dispute amongst themselves.

At para 15.5, of the said judgment, it further held that;

*“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.”*

**15.** In the instant case, as the parties were not strangers to each other and they have mutually settled the matter immediately after occurrence of the accident and as the victim, petitioner no. 2 was a pillion rider in the motorcycle driven by the accused/petitioner no. 3 and the accused petitioner no. 4 is a lady, there is no question of any doubt against the mutual settlement agreement executed between the parties.

**16.** Heard and considered the submission of the learned counsel for the parties. I have also perused the record available before this Court.

**17.** Upon hearing the learned counsel for the parties and on perusal of the record, it appears that the case had arisen due to motor vehicle accident where the petitioner no. 2, victim who was the pillion rider in the motorcycle driven by the accused petitioner no. 3 and the accused petitioner no. 4 whose vehicle collided with the motorcycle of the accused/petitioner no. 3 was a lady and in drunken state. As the case has amicably been settled amongst the parties immediately after the occurrence of the accident and also the informant,

petitioner no. 2, after settlement of the matter had informed the IO of the case that he does not want to pursue with the matter, it appears that the settlement amongst the parties were done voluntarily and on their own volition. It also appears that the informant/petitioner no. 1 and the victim/petitioner no. 2 have forgiven the accused petitioner nos. 3 and 4 and they have agreed to withdraw the FIR lodged against the petitioner nos. 3 and 4.

**18.** Under the fact and circumstances, as stated above, it appears that the continuation of the case before the Trial Court would only cause hardship to all the parties and in such a situation, it would be a waste of precious judicial time and thus, it would only result in futile exercise.

**19.** In that view of the matter and for the reason as stated above, I find sufficient force and logic in the submission of the learned counsel for the petitioners which has received full support of the learned Additional PP for the State. Further, the submission of the parties is being supported by the decision of the Hon'ble Supreme Court in the ***State of Madhya Pradesh Vs. Laxmi Narayan and Ors*** (Supra). In such circumstances, it is well settled that even if the offences lodged against the accused is non-compoundable offence, the Hon'ble Apex Court or the High Court in exercise of their inherent power under Section 482 of Cr.PC may intersect the pending criminal proceeding.

**20.** In view of the above decision of the Hon'ble Apex Court and since the case having arisen out of motorcycle accident which has amicably been settled amongst the parties *inter se*, this Court is of the considered opinion that the trial proceeding in GR case no. 111/2017 arising out of Itanagar PS case no. 38/2017 under section 279/338 of IPC pending before the learned Court of

Judicial Magistrate First Class, Yupia, needs to be set aside and quashed for the ends of justice.

**21.** Accordingly, the GR case no. 111/2017 arising out of Itanagar PS case no. 38/2017 under section 279/338 of IPC pending before the learned Court of Judicial Magistrate First Class, Yupia against the petitioner no. 3, Shri. Bikram Gingba and the petitioner no. 4, Smti. Toko Jasmine, is hereby set aside and quashed.

**22.** With the above observation, this Criminal Petition stands allowed and disposed of.

**23.** Send back the record, if any.

**JUDGE**

**Comparing Assistant**