

GAHC040015692023



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

Case No. : Crl.Petn./211/2023

Biri Kama and Anr.
S/o Shri Biri Kyoda, Presently residing at Anya Colony, Nirjuli, PO Nirjuli, PS
Nirjuli, District Papum Pare 791109 2: Sake Pao
Age:
Occupation

VERSUS

THE STATE OF AP
Represented by Public Prosecutor

Advocate for the Petitioner : Tania Kipa

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 24-01-2024

Heard Mr. T. Kipa, the learned counsel for the petitioners.
Also heard Mr. G. Tado, the learned Additional Public Prosecutor for

the State of Arunachal Pradesh.

2. This is a joint application filed under Section 482 Cr.P.C praying for quashing of Nirjuli P.S. Case No. 08/2023, under Section 324 IPC, in connection with G.R. Case No. 981/2022, along with the Charge-Sheet No.13/2023, dated 03.05.2023 and subsequent proceeding thereto.

3. It is submitted by the learned counsel for the petitioners that the accused, petitioner No.1 and victim, petitioner No.2 are good friends and they used to reside in same rented premises. On the day of the incident, both of them went outside and thereafter, they had entered into a bar, wherein they took some alcohol. As it was already late night, the bar manager asked them to leave the bar, though both the petitioner ask the bar manager to provide some more alcohol, the manager refused to provide them more alcohol and in that context, there had been some altercation with the manager of the bar. However, they had to leave the bar premises and thereafter, out of anger, the accused petitioner No.1 started hitting the grill of the bar with a *dao*, and when the victim tried to resist him in that process, he sustained some injuries with *dao* of the accused petitioner No.1. But subsequently, the matter was compromised between the parties and entered into a mutual deed of settlement.

And presently, both the accused, petitioner No.1 and the victim, petitioner No.2 are residing peacefully and they do not have any difference amongst them and hence, the present petition is filed jointly by both the petitioners i.e. the accused and the victim respectively. It is further submitted by the learned counsel for the petitioner that as the matter has already been compromised, the chance of conviction of the present petitioner No.1 is remote and bleak even if the case is allowed to be proceeded further.

4. The learned counsel for the petitioner has further relied on the decision of Hon'ble Apex Court reported in **(2014) 6 SCC 466** in the case of **Narinder Singh and others Vs. State of Punjab and another**, and also relied on another decision of this Court reported in **2022 SCC Online Gau 962** in the case of **Rido Pana and Other Vs. State of Arunachal Pradesh represented by PP (AP)**, wherein also the criminal proceedings were quashed and set side on the basis of the compromise between the parties in non-compoundable offence.

5. The learned Additional Public Prosecutor, Mr. G. Tado has submitted in this regard that it is a fact that both the accused and the victim were friends and the incident had happened only when there was an altercation with the bar manager. And out of anger, when the accused hit the grill of the bar, in that process, the victim

sustained injury and accordingly, FIR was lodged against the petitioner No.1. He further submitted that considering the entire facts of the case and also considering the view of the Hon'ble Apex Court as expressed in the case of Laxmi Narayan, he submitted that it is a fit case wherein the power under Section 482 Cr.P.C can be exercised for setting aside and quashing of the Nirjuli P.S. Case No. 08/2023, under Section 324 IPC, and subsequent G.R. Case No. 981/2022, as well as the Charge-Sheet No.13/2023, as prayed for.

6. Considering the submissions made by the learned counsel for the both sides and also considering the fact that the matter has already been compromised between the parties and in that event, the chance of conviction of the accused petitioner No.1 is very remote even if the proceeding is allowed to be continued. Further considering the view of the Hon'ble Apex Court and the fact of compromise between the parties, I find it a fit case to exercise the power under Section 482 Cr.P.C to quash the Nirjuli P.S. Case No. 08/2023, under Section 324 IPC, in connection with G.R. Case No. 981/2022, along with the Charge-Sheet No.13/2023, dated 03.05.2023 and subsequent proceeding thereto. Accordingly, the Nirjuli P.S. Case No. 08/2023, under Section 324 IPC, in connection with G.R. Case No. 981/2022, along with the Charge-Sheet No.13/2023, dated 03.05.2023, is hereby quashed.

7. With the above observation, this criminal petition stands disposed of.

JUDGE

Comparing Assistant