

GAHC040017232023



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

Case No. : Crl.Petn./236/2023

Taw Paul
S/o Taw Nillo, Resident of Upper Dobam, Karsinga, Banderdewa, District Papum
Pare, Arunachal Pradesh

VERSUS

The State of AP and 7 Ors.
Represented by P.P, Arunachal Pradesh. 2:Tagru Tate
Age: 0
Occupation :
S/o Late Tagru Tapo
Resident of Niti Vihar
Itanagar
District Papum Pare
Arunachal Pradesh.

3:Miss Wihim Jugli
Age: 0
Occupation :
Daughter of Shri Chadang Jugli
resident of Village Bubang
PO
PS and District Changlang
Arunachal Pradesh.

4:Miss Mary Kanglom
Age: 0
Occupation :
Daughter of Shri Sampung Kanglom
resident of Village Phangtip
PO
PS and District Changlang
Arunachal Pradesh.

5:Miss Yangi Jugli
Age: 0
Occupation :
Daughter of Shri Chadang Jugli
resident of Village Nunglong
PO
PS and District Changlang
Arunachal Pradesh.

6:Tagru Talik
Age: 0
Occupation :
Son of Tagru Rade
resident of Village Gimba
PO and PS Tali
Kra Daadi District
Arunachal Pradesh.

7:Tagru John
Age: 0
Occupation :
Son of Tagru Taka
resident of Nilomi village
PO and PS Tali
Kra Daadi District
Arunachal Pradesh.

8:Tagru Taka
Age: 0
Occupation :
Son of Tagru Taji
resident of Tali Village
PO and PS Tali
Kra Daadi District
Arunachal Pradesh

Advocate for the Petitioner : Takam Sunil,

Advocate for the Respondent : P P of AP, Risso Aking, T Zim, Sumit Chhetri, Sumit Chhetri, T Zim, akin, Taying Nega

:::BEFORE:::
HON'BLE MR. JUSTICE KARDAK ETE
JUDGMENT & ORDER(Oral)

Date: 18.11.2024

Heard Mr. T. Sunil, learned counsel for the petitioner. Also heard Ms. L. Hage, learned Additional Public Prosecutor for the State respondent and Mr. T. Nega, learned counsel for the complainants/victims, representing the private respondents No.2 to 8.

2. By filing this petition under Section 482 of the Code of Criminal Procedure, 1973, the petitioner and the private respondents have jointly prayed for quashing of Nirjuli P.S. Case No.47/2022, dated 12.05.2022, under Sections 323/341/147/427/506/365/34 IPC, 1860.

3. The case in brief, is that on 11.05.2022 at around 2200 hrs, an FIR was received from one Shri Tagru Tate, (respondent No.2 herein), before the Officer-in-Charge, Nirjuli Police Station, to the effect that on 11.05.2022 at around 7 to 8 pm, he along with others, while coming from Changlang to Itanagar carrying student delegates in four vehicles for General Conference of All Arunachal Pradesh Students' Union(hereinafter referred as 'AAPSU' in short), some group of people around 50 to 100 in numbers stopped their vehicles and attacked them near Radjum Hotel at Nirjuli with weapons and by pelting stones. It is alleged that some of the attackers were came out from a Mahindra Scorpio vehicle, which was reportedly supporters of one Shri Dozi Tana Tara, who is one of the presidential candidates of AAPSU. It further alleged that some of the delegates, with whom they were travelling with, namely- Ms. Wihim Jugli, Ms.

Yangi Jugli and Ms. Mary Kanglom, have been abducted by one Shri Taw Paul, (petitioner herein), the team of said Shri Dozi Tana Tara.

4. On receipt of the said FIR, the case being Nirjuli P.S. Case No.47/2022, under Sections 323/341/147/427/506/365/34 IPC was registered.

5. Thereafter, on 12.05.2022 another FIR was lodged by one Shri Boitthing Taikam, General Secretary of Rangfrah Govt. College, Changlang, to the effect that his college delegates comprising of seven students were on their way from Changlang to Itanagar to participate in the said General Conference cum Election of AAPSU, scheduled with effect from 12th May to 15th May, 2022 and on crossing Bogibeel Bridge at Dhemaji, Assam, a group of around 20 people stopped the vehicles and escorted them without the consent of his college delegates. He has been informed by one of the delegates that they have been kidnapped by Tagru Tame's team while they were travelling on the way to Itanagar. On receipt of the information, he along with his friends waited at Nirjuli D Sector and when they stopped the vehicle to enquire what exactly had happened to the delegates. In the due course of time, suddenly, the group leader Tagru Tame along with his supporters came out with dao(machete) and other lethal weapons and started charging them. Although they have tried to negotiate by having mutual words but they have aggressively started hitting them with what they had in their hands. It is also been informed that out of 7 delegates travelling in the delegates vehicle, they have rescued 3 girls, however and 4 more persons were missing and they are yet to be traced. Accordingly, the case being Nirjuli P.S. Case No.50/2022, under Sections 341/147/506/34 IPC has been registered.

6. Mr. T. Sunil, learned counsel for the petitioner, submits that no offence is disclosed against the petitioner in the FIR dated 11.05.2022 as the FIR has been filed due to dispute regarding the election of the students' organization, AAPSU. He submits that bare perusal of the impugned FIR reveals that no case under the charge offences have been made out for prosecuting the petitioner. The statements of 3(three) victims under Section 161 of the Cr.P.C would clearly goes to show that no offence as alleged against the petitioner has been committed by him.

7. Mr. Sunil, learned counsel further submits that the connected counter FIR dated 12.05.2022 lodged, being Nirjuli P.S. Case No.50/2022 by one Shri Boitthing Taikam, arisen out of the same incident, on submitting of final report, has been accepted by the learned Court and closed. The said case has been closed on filing of the final report as no case has been made out, therefore, the present Nirjuli P.S. case No.47/2022 cannot also be continued. That apart, he submits that during the pendency of the investigation of the case, the parties have settled the matter vide Deed of Settlement dated 08.12.2023, thereby, amicably settled the matter to maintain cordial relationship between them. Therefore, he submits that the FIR dated 11.05.2022 registered as Nirjuli P.S. Case No.47/2022 may be quashed.

8. Ms. L. Hage, learned Addl. Public Prosecutor, fairly submits that since the case has been settled between the parties, a case appears to have been arisen due to differences during the election of the students' organization, and also that another FIR being Nirjuli P.S. Case No.50/2022 has been closed, this Court may consider and pass appropriate order.

9. Mr. Nega, learned counsel for the complainants/victims has submitted that the parties have settled the matter amicably without there being any coercion from any quarter and therefore, the present petition may be allowed.

10. Due consideration has been extended to the submissions of the learned counsel for the parties and also perused the materials available on record.

11. The case appears to have been arisen out of election of students' organization, namely, All Arunachal Pradesh Students Union, where number of candidates were vying for various posts of the said students' organization in the election. Perusal of the record, goes to show that the incident had occurred between the rival candidates of the said student' union election.

12. It is seen that the other FIR being Nirjuli P.S. Case No.50/2022 under Sections 341/147/506/34 IPC filed by one Boitthing Taikam culminated into closure report, which has been accepted by the competent Court on 09.12.2023. The said FIR was connected to the same incident with that of the present FIR being Nirjuli P.S. Case No.47/2022, under Sections 323/341/147/427/506/365/34, IPC, 1860.

13. The respondent No.2, informant in the present case and one Shri Boitthing Taikam, informant in the Nirjuli P.S. Case No.50/2022 have amicably settled the matter vide Deed of Settlement dated 08.12.2023. The settlement reveals that the respondent No.2 has provided medical aid to said Shri Boitthing Taikam and his supporters for the minor injuries or bruises sustained by him and his supporters. The informant/complainant in the case being Nirjuli P.S. Case No.50/2022 has also reciprocated by providing medical aid to the respondent

No.2 and his supporters for minor injuries or bruises sustained by him and his supporters. The parties have also compensated for the loss incurred due to damage of the vehicles and their respective supporters. They have mutually resolved the disputes as the FIR was lodged due to misunderstanding, which purely relates to election for the respective posts of the students' organization. It had happened due to canvassing of election campaign for their respective candidates. It also appears that the settlement Deed has been executed by the parties on their own volition and no force has been exerted on them.

14. The law relating to quashing of the FIR by invoking inherent power of this court is well settled. A profitable reference may be made to the case of ***State of Madhya Pradesh Vs. Lakshmi Narayan and Ors.***, reported in ***(2019) 5 SCC 688***, which is reproduced herein under:

"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;

*115.4. 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..."

15. Having considered the materials on record and principle of law relating to quashing of an FIR laid down by the Hon'ble Supreme Court, I am of the considered view that the present case is one of the cases where the inherent power of this Court under Section 482 of the Cr.P.C. can be invoked.

16. On consideration of the entire facts and circumstances of the present case and considering that the parties have resolved the entire disputes which has been arisen out of purely election related disputes during the Students Union election as well as the other case being Nirjuli PS Case No.50/2022 arisen out of same incident having been closed, I am of the view that no useful purpose would be served in allowing continuation of the investigation in the present case.

17. In view of the forgoing reasons and the principle of law laid down by the Hon'ble Supreme Court, I am of the considered view that the FIR being Nirjuli P.S. Case No.47/2022, under Sections 323/341/147/427/506/365/34 IPC 1860, is liable to be quashed.

18. Accordingly, the FIR being Nirjuli P.S. Case No.472022, under Sections 323/341/147/427/506/365/34 IPC, 1860 is hereby quashed.

The criminal petition stands allowed and disposed of.

JUDGE

Comparing Assistant