

GAHC010026352024



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

Case No. : Crl.Pet./157/2024

SARUFA BEGUM AND ANR
W/O MANIR UDDIN
D/O MD. SIDDIQUE ALI
R/O VILL- BELTOLA, KARMAPUR, P.S. DISPUR, DIST. KAMRUP, ASSAM

2: MANIR UDDIN
S/O SOMED ALI
R/O VILL- KAYAKUCHI
JALKARA
P.S. KOYAKUCHI

DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR N AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 15.05.2024

Heard Mr. N. Ahmed, learned counsel for the petitioners. Also heard Mr. M. P. Goswami, learned Additional Public Prosecutor for the State respondent.

2. This is an application under Section 482/401 of the Code of Criminal Procedure *read with* Article 227 of the Constitution of India for quashing the Charge-Sheet No. 421/13, dated 30.09.2013, arising out of Dispur P.S. Case No. 1466/2013, under Section 498(A) of the India Penal Code, as well as the subsequent criminal proceeding in G.R. Case No. 9011/2013, pending before the Court of learned Judicial Magistrate First Class, Kamrup (M), Guwahati.

3. It is submitted by Mr. N. Ahmed, learned counsel for the petitioners, that this is a joint petition for quashing of the criminal proceeding along with the Charge-Sheet and the F.I.R. as the matter has already been amicably settled between the parties and both the petitioner No. 1 and petitioner No. 2, i.e. the informant/victim and accused, respectively, are residing happily as husband and wife. The F.I.R. was lodged by the petitioner No. 1 only due to some misunderstanding after a family dispute between the parties. But soon after the incident, they have compromised the matter and presently they are living peacefully as husband and wife. More so, as per the order dated 15.02.2024, the additional affidavit is also filed by the petitioner No. 1 stating that they have amicably settled the matter and are living peacefully as husband and wife and hence, if the proceeding is allowed to be continued, it will be nothing but an abuse of the process of law. Further it is submitted by the learned counsel for the petitioner that though the case was Charge-Sheeted in the year 2013, but

the present petition for quashing the criminal proceeding has filed in the belated stage of the proceeding as they came to know about the pendency of this case only after issuance of NBWA against the accused/ petitioner No. 2 and he was not aware about the pendency of this case as both the parties entered into the settlement soon after the lodging of the F.I.R.

4. In this context, Mr. Goswami, learned Additional Public Prosecutor, has submitted that since both the parties have resolved their dispute amicably and the entire dispute arose only due to matrimonial relationship and they are no longer willing to proceed with the case, the State has no objection in the event of allowing the petition.

5. I have considered the submissions made by the learned counsels for both sides and also perused the materials available in the case record.

6. It is seen that admittedly both the petitioner No. 2 and petitioner No. 1 are husband and wife, respectively. The petitioner No. 1 had lodged the F.I.R. against the petitioner No. 2. However, they have resolved their dispute amicably and are presently living peacefully together as husband and wife without any differences.

7. In the case of **State of Madhya Pradesh vs. Laxmi Narayan**, reported in **2019 (5) SCC 688**, the Apex Court has held as 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;

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.”

8. Here in this case, it is seen that the dispute between the petitioner Nos. 1 and 2 has arisen out of their matrimonial relationship and they have resolved

the entire dispute amongst themselves and they are now living peacefully together as husband and wife and therefore, even if the proceeding is allowed to be continued, the chance of conviction is also very remote and bleak.

9. In view of above, ends of justice would be meted out if the petition is allowed. Further, since the matter has already been settled between the petitioners, it is unlikely that the petitioner No. 1 will depose against the petitioner No. 2, and in that event allowing the proceeding to continue before the learned Court below, it would be an abuse of the process of the Court.

10. Under the above facts and circumstances and also considering the law laid down by the Supreme Court in the case of **Laxmi Narayan (supra)**, this Court is of the view that this is a fit case where the extra-ordinary power under Section 482 of the Code of Criminal Procedure can be invoked to quash the criminal proceeding pending before the Court of learned Judicial Magistrate First Class, Kamrup (M), Guwahati. Accordingly, the petition stands allowed. The F.I.R. of Dispur P.S. Case No. 1466/2013, under Section 498(A) of the India Penal Code; Charge-Sheet No. 421/13, dated 30.09.2013; as well as the subsequent criminal proceeding in G.R. Case No. 9011/2013, pending before the Court of learned Judicial Magistrate First Class, Kamrup (M), Guwahati, stands set aside and quashed.

11. In terms of above, this criminal petition stands disposed of.

JUDGE

Comparing Assistant