

GAHC010041932024



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

Case No. : Crl.Pet./234/2024

ASHOK KUMAR NATH AND ANR
S/O TULA RAM NATH
R/O VILL- UTTAR CHANG CHAKI, P.S. KAMPUR IN THE DISTRICT OF
NAGAON, ASSAM

2: BIJOYLAKSHMI BORAH
D/O LAKHI BORAH
R/O VILL- NEPALI BASTI

P.S. MISSAMARI
IN THE DISTRICT OF SONITPUR
ASSA

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR SARFRAZ NAWAZ

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI
ORDER

22.03.2024

Heard Mr. S. Nawaz, learned counsel for the petitioners. Also heard Mr. D. Das, learned APP for the State respondent.

This is an application under Section 482 of the CrPC, 1973 filed jointly by the complainant i.e. Sh. Ashok Kumar Nath and the accused Smt. Bijoylakshmi Borah for quashing of the FIR and consequential proceedings in connection with Noonmati PS Case No. 409/2021 registered under Sections 66-C/66-D/67 of the Information Technology Act, 2000 (IT Act) on the ground of compromise between the parties.

The facts of the case is that the petitioner No. 1 and the petitioner No. 2 had a history together and following several months into their relationship, disagreements and turmoil arose between them for which on 13.07.2021 the petitioner No. 1 filed an FIR alleging inter alia that the petitioner No. 2 has hacked the Facebook account of the petitioner No. 1 and is threatening thereof.

It is stated on oath at para 5 of the petition that the FIR was lodged in the heat of the moment due to a dispute between them and after lodging of the said FIR the petitioner No. 1 and the petitioner No. 2 have settled their dispute amicably. The accompanying affidavit is sworn by the complainant/petitioner No. 1.

Further, it appears that a Deed of Compromise is enclosed as Annexure 2 to the petition which shows that the matter has been settled amicably between the parties.

Sections 66C, 66D and Section 67 of the IT Act provide punishment which may extend to three years.

It would be pertinent to refer to Section 77A of the IT Act which reads as hereunder:-

“77A. Compounding of offences.—A court of competent jurisdiction may compound offences, other than offences for which the punishment for life or imprisonment for a term exceeding three years has been provided, under this Act: Provided that the court shall not compound such offence where the accused is, by reason of his previous conviction, liable to either enhanced punishment or to a punishment of a different kind: Provided further that the court shall not compound any offence where such offence affects the socio economic conditions of the country or has been committed against a child below the age of 18 years or a woman. 1. Subs. by Act 10 of 2009, s. 38, for section 77 (w.e.f. 27-10-2009). 30 (2) The person accused of an offence under this Act may file an application for compounding in the court in which offence is pending for trial and the provisions of sections 265B and 265C of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply.”

It appears that since the offences are compoundable and the matter has been amicably settled between the parties, for ends of justice, further proceedings in connection with the subject FIR is not justified.

Accordingly, further proceedings in connection with the FIR and all consequent proceedings in Noonmati PS Case No. 409/2021 stands quashed.

With the aforesaid observations, this Criminal Petition stands disposed of.

JUDGE

Comparing Assistant