

GAHC010098972023



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

Case No. : Crl.Pet./437/2023

PRIYAM AMAR AGARWAL
D/O AMAR AGARWAL
ADDRESS- BUILDING NO. 344, FLAT NO. 1004, KALPATARU BUILDING,
SECTOR-3,
SRISHTI COMPLEX, MIRA ROAD, (EAST), MIRA ROAD,
THANE, MAHARASHTRA -401107.
CURRENTLY RESIDING - M-6, SECTOR 11,
NOIDA- 201301.

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:ANURADHA AGARWAL
D/O RAMAVATAR LAHOTY
R/O OLD BALIBAT
P.O. AND P.S. JORHAT
DIST. JORHAT
ASSAM
PIN-78500

Advocate for the Petitioner : MR. S KASHYAP
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

01.02.2024

Heard Mr. S. Kashyap, learned counsel for the petitioner; Mr. R.J. Barua, learned Additional Public Prosecutor for the State respondent No. 1; and Mr. D. Goswami, learned counsel for the respondent No. 2.

2. In this petition, under Section 482 of the Cr.P.C., the petitioner, Priyam Amar Agarwal has prayed for quashing and setting aside the FIR dated 23.11.2021, in connection with Jorhat P.S. Case No. 2577/2021, under Section 498[A] of the IPC.

3. The background facts leading to filing of the petition briefly stated as under:-

“On 23.11.2021, Anuradha Agarwal, the respondent No. 2 has lodged one FIR with the Officer In-Charge of Jorhat P.S., alleging inter-alia amongst others that on 04.12.2017, she got married to one Pratik Agarwal and thereafter, they started living together as husband and wife in the matrimonial home and before her marriage, her father-in-law; mother-in-law; sister-in-law; and her husband, demanded a sum of Rs. 2,51,000/- and also gold jewellery and electronic items, which her father provided to them. After few months of marriage they again started demanding various articles including gold ornaments, but, her parents refused to fulfill the same, then they started torturing her both physically and mentally and continued the same till 20.05.2021.”

4. Mr. Kashyap, learned counsel for the petitioner submits that the petitioner and the respondent No. 2 have settled the matter amicably and to that effect they have also executed one settlement deed, which is filed before

this Court along with one additional affidavit on 30.01.2024, and the settlement deed dated 03.10.2023, indicates that the respondent No. 2 and the petitioner have settled the dispute amicably. Mr. Kashyap further submits that as the matter has already been settled between the parties and as the offence under Section 498[A] of the IPC is not compoundable under Section 320 of the Cr.P.C., they have approached this Court by filing the present petition for quashing and setting aside the FIR dated 23.11.2021, in connection with Jorhat P.S. Case No. 2577/2021, under Section 498[A] of the IPC, by invoking the jurisdiction under Section 482 of the Cr.P.C. and therefore, it is contended to allow the petition.

4.1. Mr. Kashyap, learned counsel for the petitioner has also referred one decision of the Hon'ble Supreme Court in the case of **Gian Singh vs. The State of Punjab and Another**, reported in **[2012] 10 SCC 303**.

5. On the other hand, Mr. Goswami, learned counsel for the respondent No. 2 submits that the respondent No. 2 has no objection if the Court wish to quash the FIR dated 23.11.2021, in connection with Jorhat P.S. Case No. 2577/2021, under Section 498[A] of the IPC.

6. Whereas, Mr. Barua, learned Addl. P.P. submits that the State has no objection, since the parties have settled the matter amicably amongst them.

7. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record and the case law of **Gian Singh [Supra]**.

8. It appears that the FIR dated 23.11.2021, in connection with Jorhat P.S. Case No. 2577/2021, under Section 498[A] of the IPC was lodged by the

respondent No.2, Anuradha Agarwal and the allegation made in the FIR relates to subjecting the informant/respondent No. 2 to both physical and mental cruelty demanding dowry. It also appears from the additional affidavit especially the settlement deed dated 03.10.2023, that the parties have settled the matter amicably and they are not willing to pursue the matter. Further, it appears that as the offence under Section 498[A] of the IPC is not compoundable under Section 320 of the Cr.P.C., they have approached this Court by filing the present petition, by invoking the jurisdiction under Section 482 of the Cr.P.C.

9. It is to be noted here that in the case of **Gian Singh [Supra]**, the Hon'ble Supreme Court in the Paragraph No. 61 has held that :-

“The inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz. [i] to secure the ends of justice or [ii] to prevent abuse of the process of any Court.”

The Hon'ble Supreme Court in the said paragraph further held that:-

“The criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing

the criminal case despite full and complete settlement and compromise with the victim.”

10. In the case in hand the matter relates to dowry and it is a matrimonial dispute. The respondent No. 2 and the petitioner have settled the entire dispute amongst themselves. The possibility of conviction is bleak and remote as the matter has been settled amicably, the respondent No. 2 is unlikely to depose against the petitioner

11. Having considered the facts and circumstances of the case in hand as discussed herein above and having considered the submissions of learned counsel for both the parties and drawing premises from the decision of the Hon'ble Supreme Court, in the case of **Gian Singh [Supra]**, this Court is of the view that the ends of justice will be made out if the petition is allowed. As the matter has been settled amicably no grateful purpose will be served by allowing to continue the Jorhat P.S. Case No. 2577/2021 and would amounts to abuse of the process of law.

12. Accordingly, the petition stands allowed and the FIR dated 23.11.2021, in connection with Jorhat P.S. Case No. 2577/2021, under Section 498[A] of the IPC, stands quashed and set aside.

13. In terms of above, this Criminal Petition stands disposed of.

JUDGE

Comparing Assistant