

GAHC010104902024



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

Case No. : Crl.Pet./842/2024

RAHUL DAS AND ANR
S/O SHRI RABI KUMAR DAS, R/O 69/1, ARABINDA ROAD, KONNAGR,
HOOGHLY, WEST BENGAL-712235

2: RITUSHREE ROY
D/O ASHUTOSH ROY
R/O MUKHERJEE BHAWAN ADAGUDAM
SHREE BHUMI NAGAR
BY LANE NO. 03
FLAT NO. G1
P.S.-ODALBAKRA POLICE OUTPOST
P.O.-LALGANESH
DIST- KAMRUP (M)
ASSAM
PIN-78103

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M BISWAS, J SINGPHO, MS. A K CHOPHI, A SAIKIA

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 01.08.2024

Heard Mr. M. Biswas, learned counsel for the petitioners. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

2. This is an application under Section 482 of the Code of Criminal Procedure, 1973 for quashing the FIR of Dispur P.S. Case No. 1733/2023, registered under Sections 498A/384 of the Indian Penal Code.

3. The present petition has been filed jointly by both the accused and the victim/informant as petitioner Nos. 1 & 2, respectively.

6. Mr. Biswas, learned counsel for the petitioners, has submitted that due to misunderstanding, there was some dispute between the parties. But, at present, they have settled their dispute amicably and they also mutually agreed to divorce with some terms and conditions and to that effect, they have executed one deed of mutual settlement and accordingly, they decided to withdraw the cases filed by both the parties against each other. He further submitted that the case is still under investigation and the Charge-Sheet is not yet filed in the present case and as the matter has already been settled mutually by both the parties, they have filed the present petition jointly praying for quashing of the FIR of Dispur P.S. Case No. 1733/2023, registered under Sections 498A/384 of the Indian Penal Code.

7. In support of his submission, Mr. Biswas further relied on the decision of Apex Court passed in the case of **Gian Singh Vs. State of Punjab [(2012) 10 SCC 303]** and emphasized on paragraph No. 61 of the judgment, wherein it has been held as under:

"...But 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..."

8. He further relied on another decision of Apex Court passed in **Jitendra Raghuvanshi & Ors. Vs. Babita Raghuvanshi & Anr. [(2013) 4 SCC 58]**.

9. Accordingly, Mr. Biswas submitted that as the matter has already been amicably settled between the parties, no fruitful purpose would be served even if the proceeding is allowed to be continued and the chance of conviction is also very remote and bleak. Rather, if the proceeding is allowed to be continued, it will be an abuse of the process of the Court. Therefore, Mr. Biswas prays for quashing of the FIR of Dispur P.S. Case No. 1733/2023, registered under Sections 498A/384 of the Indian Penal Code

10. In this context, Mr. Sharma, learned Additional Public Prosecutor,

submitted that since both the parties have resolved their dispute amicably and they are no longer willing to proceed with the case, the State has no objection in the event of allowing this petition.

11. I have considered the submissions made by the learned counsel for the parties and also perused the materials available on record.

12. It is seen that the petitioner No. 2, i.e. the victim/informant of this case, has lodged the F.I.R. against the petitioner No. 1. However, subsequently, they have resolved their dispute amicably by executing a deed of mutual settlement and they also mutually agreed to divorce with some terms and conditions.

13. Accordingly, this Court is of the considered view that the dispute being pre-dominantly private in nature, particularly arisen out of matrimonial relationship, even if the criminal proceeding is allowed to be continued in the present case, it would be an abuse of the process of law. Since the petitioner Nos. 1 & 2, have decided to resolved the entire dispute between themselves and now living peacefully, in the considered view of this Court, the chances of conviction are remote and bleak in the present case.

14. In the case of **State of Madhya Pradesh vs. Laxmi Narayan**, reported in **2019 (5) SCC 688**, the Hon'ble Apex Court has held, which is reproduced here-in-below:

"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.”

15. In view of the discussion made above and also considering the view of the

Apex Court in the case laws referred to hereinabove and further considering the fact that both the petitioners have amicably settled their dispute, I am of the considered view that 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. 2 will depose against the petitioner No. 1, and in that event allowing the investigation to continue, it would be an abuse of the process of law.

16. Thus, this Court is of the considered view that this is a fit case where the inherent power under Section 482 of the Code of Criminal Procedure, 1973 can be invoked to quash the F.I.R. Accordingly, the petition stands allowed. The FIR of Dispur P.S. Case No. 1733/2023, registered under Sections 498A/384 of the Indian Penal Code, stands quashed.

17. Criminal petition stands allowed and disposed of in terms above.

JUDGE

Comparing Assistant