

GAHC010129642013



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

Case No. : Crl.Pet./254/2013

RAJIB UDDIN LASKAR and 2 ORS.
S/O AJIR UDDIN LASKAR R/O VILL- MOHANPUR R/A P.S. ALGAPUR, DIST.
HAILAKANDI

2: SMTI. RAJMA BEGUM LASKAR
W/O SRI RAJIB UDDIN LASKAR R/O VILL- MOHANPUR R/A P.S. ALGAPUR
DIST. HAILAKANDI.

3: SRI MOIN UDDIN MAZUMDAR
S/O LT. NURUJJAMAN MAZUMDAR R/O VILL- MOHANPUR GRANT P.S.
ALGAPUR
DIST. HAILAKANDI

VERSUS

THE STATE OF ASSAM
THROUGH PUBLIC PROSECUTOR, ASSAM, GAUHATI HIGH COURT.

Advocate for the Petitioner : MR.M H LASKAR, MR. E AHMED,MRM A BARBHUIYA

Advocate for the Respondent : , ,PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

05.11.2024

Heard Mr. E. Ahmed, learned counsel for the petitioners. Also heard Mr. K.

Baishya, learned Additional Public Prosecutor for the State.

2. This is an application filed under Section 482 of the Cr.P.C. praying for setting aside and quashing the FIR No. 61/2012 dated 20.10.2023 registered as Algapur P.S. Case No. 61/2012 under Section 376 of the IPC as well as Charge Sheet No. 39/2012 dated 29.11.2012 corresponding to G.R. Case No. 923/2012 pending for trial before the Court of learned Additional CJM, Hailakandi.
3. In the F.I.R. it is alleged that the petitioner No. 1 had raped his daughter i.e. petitioner No, 2. Accordingly, the petitioner No. 3 lodged the FIR in question.
4. This present petition is jointly filed by the informant, victim and the accused person. The petitioner No. 1 in the present application is the accused named in the FIR, petitioner No. 2 is the victim and the petitioner No. 3 is the informant.
5. The present petition is filed in a backdrop that the complainant and the accused had settled the matter amicably between them and therefore, this court in exercise of power under Section 482 of Cr.P.C. should quash the criminal prosecution as the offences charged are not compoundable under the provision of Cr.P.C.
6. It is on record that after the registration of the FIR, the case was investigated by the Investigating Officer and Charge Sheet was laid against the petitioner No. 1 vide Charge Sheet No. 39/2012 dated 29.11.2012 corresponding to Algapur P.S. Case No. 61/2012 under Section 376 of the IPC.
7. It is also on record that prior to filing of the charge sheet, the

petitioner Nos. 1 and 2 have solemnized their marriage on 14.09.2012 before the Muslim Marriage Registrar, which is annexed to the petition as Annexure-II.

8. The power under Section 482 of Cr.P.C. is an inherent power and such inherent power can be exercised to quash a criminal proceeding or a criminal complaint but while doing so the court is to follow certain principles. Such power can be exercised, amongst others, when the offences alleged are overwhelmingly and predominantly civil in character or when such dispute arises out of matrimonial relationship or family disputes and the parties have resolved the entire disputes amongst themselves. While exercising such discretionary power, it is to be seen that such offences if compromised, shall not affect the society at large.
9. Coming to the case in hand, from the materials available on record including the charge sheet, the statement of witnesses and the compromise/ settlement arrived at by the parties show that it cannot be per se said to be an offence under Section 376 IPC as recorded hereinabove and the relation established was a consensual relationship. The fact also remains that both the petitioner got married even before filing of charge-sheet. Therefore, in the considered opinion of this court, as the parties have amicably resolved the disputes and that the offence does not involve any heinous or serious offence and also that if the offences are allowed to be compounded that will have no serious impact on the society, the power under Section 482 of Cr.P.C. can be exercised in the given facts of the present case.
10. In the aforesaid backdrop, this court is of the view that this is a fit case where the power under Section 482 of Cr.P.C. can be exercised to set

aside and quash the criminal prosecution in question on being amicably settled.

11. Accordingly, this petition is allowed by setting aside and quashing the criminal proceeding arising out of FIR No. 61/2012 dated 20.10.2023 registered as Algapur P.S. Case No. 61/2012 under Section 376 of the IPC as well as Charge Sheet No. 39/2012 dated 29.11.2012 corresponding to G.R. Case No. 923/2012 pending for trial before the Court of learned Additional CJM, Hailakandi.

JUDGE

Comparing Assistant