

GAHC010179252024



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

Case No. : Crl.Pet./1104/2024

AMDADUL HAZARIKA AND ANR
S/O ABDUL MALIK
R/O NAYANPUR, DISPUR,
P.O.AND P.S. DISPUR
GUWAHATI-5,
KAMRUP (M), ASSAM
MOBILE NO. 6913326525

2: MUSST. SUFIA BEGUM
W/O SHRI AMDADUL HAZARIKA
R/O NAYANPUR
DISPUR
P.O. AND P.S. DISPUR
GUWAHATI-5
KAMRUP (M)
ASSAM
MOBILE NO. 936525287

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR B B NARZARY, MR. S CHAUHAN, R DEB, V KHAKHALARY

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 10.09.2024

- 1)** Heard Mr. B. B. Narzary, learned Senior Counsel assisted by Mr. P. Mazumder, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State of Assam.
- 2)** This application under Section 528 of the BNSS, 2023 has been jointly filed by the petitioners, namely, Shri. Amdadul Hazarika and Musst. Sufia Begum praying for quashing of the Charge-sheet and the PRC case number which arose out of the said Charge-sheet PRC Case No.1850/2021 pending in the Court of learned Chief Judicial Magistrate, Kamrup (Metro).
- 3)** The facts relevant for consideration of the instant Criminal Petition, in brief, are as follows:
- 4)** On 08.02.2018, the petitioner No.2 i.e., Musst. Sufia Begum had lodged an FIR before the Officer In-Charge of Dispur Police Station, *inter-alia*, alleging that her husband Amdadul Hazarika, who is the petitioner No.1 in this case used to torture her after consuming "Bhang" and on 07.02.2018 he throw the petitioner No.2 out of his house and also tried to assault her with a Dao.
- 5)** The learned counsel for the petitioners has submitted that both the petitioners are husband and wife in relationship and they have two grown up college going children, namely, Sajid Hazarika and Muskan Mehek Hazarika who stays with them. It is also submitted by the learned Senior Counsel for the petitioners that the petitioners have amicably settled their dispute amongst themselves and are now residing peacefully in a rented house with their children.

6) The learned Senior Counsel for the petitioners have also submitted that considering the settlement, which has been raised between the parties, there is a weak chance of conviction in the case and, therefore, proceeding with the PRC Case No.1850/2021 would only be an abuse of the process of Court.

7) The learned counsel for the petitioners have also cited the following rulings in support of his submissions:

- i. ***Jasmair Singh and Another v. State of Haryana and Another reported in 2022 9SCC 73.***
- ii. ***Badana Begum (Musstt) v. State of Assam reported in 2013 1 GLT 692.***

8) I have considered the submissions made by the learned counsel for both the sides and I have perused the material available on record, this application has been jointly filed by both the petitioners, who are husband and wife in relationship, which itself shows that they have amicably settled their dispute amongst themselves.

9) Though the Section 498A of the Indian Penal Code under which the Charge-sheet has been laid which is a non compoundable offence, however, there are catena of rulings of the Apex Court as well as of this Court that in dispute between the family members more so, in matrimonial dispute, where the parties have reached amicable settlement amongst themselves and where there is a bleak chance of conviction in the pending trial, it would be a futile exercise to proceed with the pending trial and proceeding with such a trial may amount to abuse of the process of Court.

10) It also appears from the Charge-sheet that the petitioner No.2 is listed in the Charge-sheet as the main witness for the prosecution side and when she has herself settled the dispute with her husband, hence there is unlikelihood

that the pending Criminal Case against the petitioner No.1 will result in conviction.

11) Under such circumstances, this Court is of the considered opinion that this is a fit case where the Charge-sheet and the pending case against the petitioner No.1 may be quashed by invoking powers of this Court under Section 528 of the BNSS.

12) Accordingly, the Charge-sheet filed in PRC Case No.1850/2021 against the petitioner No.1 is hereby quashed.

13) This Criminal Petition accordingly disposed of.

JUDGE

Comparing Assistant