

GAHC020003652023



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

Case No. : Crl. Pet./16/2023

SHRI. DIPJYOTI TALUKDAR
S/O SHRI KALUDHAR TALUKDAR, R/O RAHADHAR BIRKALA VILLAGE, P.S.
PATACHARKUCHI, P.O. PATHSALA, DIST-BAJALI ASSAM

VERSUS

THE STATE OF NAGALAND AND ANR
KOHIMA NAGALAND
2:SHRI WIMATHON NEWMAI
S/O H. NEWMAI
PROPRIETOR OF M/S ELIM COMPUTERS
R/O L. CHASE COMPLEX
MIDLAND
DIMAPUR NAGALAN

Advocate for the Petitioner : P. B. PAUL

Advocate for the Respondent : P.P, NAGALAND

**BEFORE
HON'BLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 27-05-2024

Heard Mr. Pfosekho Pfotte, learned counsel for the petitioner. I have also heard Mr. K. Angami, learned PP for the State and Mr. Z. Kulnu, learned counsel for the respondent no. 2/complainant.

2. This criminal petition under section 482 of the Code of Criminal Procedure, 1973 has been filed by the accused applicant with the following prayer:

(i) To quash and set aside the FIR dated 16/05/2016, registered as G.R. No. 429/2016 arising out of Dimapur West Police Station Case no. 95/2016, under section 120B/420/406/471 IPC.

(ii) To quash and set aside the Charge sheet No. 56/2019 dated 14.08.2019 submitted by the Investigating Officer.

(iii) To quash and set aside the entire criminal proceedings in G.R. No. 429/2016 now pending disposal in the Court of Judicial Magistrate First Class-II, Dimapur, Nagaland.

(iv) And further to discharge the petitioner/alleged accused from the criminal liabilities charged against the petitioner from the above referred G.R. case.

3. The case of the petitioner in brief is that on 16.05.2016, Respondent No.2 Shri Wimathon Newmei, lodged a written FIR before the Officer-in-Charge, West Police Station, Dimapur against the accused/petitioner herein inter-alia alleging therein that on 26.11.2015 on being asked by the accused/petitioner, he had transferred a sum of Rs. 19,012/- in the account of the accused/petitioner, being the price of the laptop to be supplied by accused/petitioner to him. However, the accused/petitioner did not send any laptop. On the other hand, they came to know that the accused/applicant has been duping many other dealers in the same manner.

4. Basing on the above written FIR, a case was registered being West PS case no. 095/2016 under section 120B/420/406/471 IPC and investigated into. On completion of the investigation, the IO found prima facie case against the accused along with four other associates and submitted charged sheet against them for offence under section 120B/420/406/471 IPC.

5. In the meantime, while the case was still under investigation, the accused/petitioner had entered into a compromise deed with the informant on 22.08.2016. As per the said compromise deed executed between the informant and the accused/petitioner, the case was already compromised and amicably settled between the parties and the accused/petitioner had returned the money to the informant amounting to Rs. 19,012/-. And in turn, the informant agreed to withdraw the complaint lodged against the accused/petitioner. Accordingly, a copy of the said compromise deed was presented to the IO of the case for information. However, after more than 3 years of lodging the FIR, the IO of the case has submitted the case into chargesheet against the accused/petitioner along with 4 others accused persons on 14.08.2019.

6. The learned counsel for the petitioner submits that after receipt of the chargesheet, the learned trial court had issued process against the accused/petitioner. However, so far, no charge has been framed against the accused/petitioner. It is further submitted that on 31.10.2022, the accused/ petitioner has made an application before the learned Trial Court (JMFC, Dimapur) praying for his discharge basing on the compromise deed executed between the parties. However, the said discharge application was rejected on

the ground that the scope of compounding the case by the Sub-ordinate court is only limited to the list mentioned under section 320 (1) (2) of the Cr.PC; and as the offences chargesheeted against the accused/petitioner involved with non bailable offence, the same was not within the power of the Sub-ordinate Court to discharge the accused persons.

7. The respondent no. 2/informant appeared and filed affidavit and while conceding the contention made by the petitioner has stated that the case has already been amicably settled and compromised between the parties on 22.08.2016. The learned counsel for the respondent/Complainant further submitted that since the matter has already been settled between the parties long back in the year 2016 and since he had already received back his invested money paid for laptop from the accused/petitioner, the respondent no. 2/informant has no further grievance against the accused/applicant. Hence, being aggrieved by the said rejection order, the petitioner has filed this criminal petition before this court with prayers as stated above.

8. Mr. K. Angami, learned Public Prosecutor submits that the allegation against the accused is not that simple as it appears in the FIR. The records shows that accused and his associates have been duping other people as well. There is also a report of some more case being registered against the accused/applicant. However, he fairly submitted that in so far as the case of the accused/petitioner and the informant in the present case is concerned, it appears that they have amicably settled the matter by executing a compromise deed whereby the accused has paid back a sum of Rs. 19,012/- to

the informant.

9. The learned counsel for the petitioner submitted that the matter relates to a money transaction. The respondent/informant had paid a sum of Rs 19,012/- to the accused/petitioner being a price amount of a laptop to be supplied to him by the petitioner. The respondent lodged complaint against the petitioner, as it took longer time to deliver than it was required. However, later on the money was return to the respondent/informant on demand and executed compromise deed. Thus, the dispute; if any, was purely personal between the two individuals. As it is a money transaction and non-delivery of goods ordered, the case is civil in nature. Further, since the dispute between the parties has now been amicably settled by executing a compromise deed dated 22.08.2016, the continuation of the criminal case being GR No. 429/2016 pending before the learned Court of Judicial Magistrate First Class-II, Dimapur would only result in unnecessary harassment to the parties.

10. Mr. K. Angami, learned PP for the State at this stage fairly submitted that although the petitioner is stated to be involved in some other similar nature of cases elsewhere also, but the said case is not before this Court; and as the dispute between the present parties has amicably been settled by executing compromise deed, this Court may pass suitable orders.

11. On perusal of the records and while taking note of the submissions of the parties, it appears that the matter involves with money transactions which is purely personal in nature affecting two

private individuals in dispute and the dispute appears to be civil in nature. Moreover, the incident occurred more than 7 years ago and since then, no any further commission of the similar nature of offence by the petitioner is transpired or reported against the informant. Under the circumstances, the continuation of the criminal case would result in untold hardship to the parties besides being waste of the precious judicial time and also exchequer to the State.

12. In such circumstances, it is now well settled that even though the offences lodged against the particular accused is not bailable in nature, the higher court viz., the High Court or the Apex Court in exercise of their inherent/special power may intersect the pending criminal proceedings.

13. In this regard, this Court may gainfully places reliance on the principle of law enunciated by the Hon'ble Apex Court in the case of ***Ram Gopal and Anr Vs. State of MP reported in 2021 SCC Online SC 834.***

14. Since the case has amicably been settled among the parties, *interse* this Court is of the considered opinion that the pending criminal proceeding in G.R. No. 429/2016 arising out of Dimapur West Police Station Case no. 95/2016, under section 120B/420/406/471 IPC and the Charge sheet No. 56/2019 dated 14.08.2019 in so far as the petitioner is concerned needs to be quashed.

15. Accordingly, the FIR dated 16/05/2016, registered as G.R. No. 429/2016 arising out of Dimapur West Police Station Case no.

95/2016, under section 120B/420/406/471 IPC and the Charge sheet No. 56/2019 dated 14.08.2019 pending in the learned Court of Judicial Magistrate First Class-II, Dimapur in so far as the accused petitioner, Shri Dipjyoti Talukdar, is concerned are hereby quashed and set aside.

16. This criminal petition stands allowed and disposed of to the extend as stated above.

Sd/-
JUDGE

Comparing Assistant