

GAHC020006182023



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

Case No. : Crl. Pet./33/2023

M/S NORTH EAST MARKETING CO
AT KALIBARI ROAD, DIMAPUR, NAGALAND.
REPRESENTED BY SHRI A YANGER JAMIR S/O M ALEM JAMIR R/O H.NO.
178, DUNCAN ROAD DUNCAN BOSTI, WARD 11-DIMAPUR NAGALAND

VERSUS

SHRI ARUN SINGH AND ANR
PROPRIETOR OF M/S/ VIKASH STORE CHUMUKEDIMA, DIMAPUR NAGALAND,
PRESENTLY RESIDING AT MURITHA VILLAGE, BHOARMPURA TOWN,
DARBHANGA DIST, BIHAR-847303 2:THE STATE OF NAGALAND
KOHIMA NAGALAN

Advocate for the Petitioner : ANJANA MODI

Advocate for the Respondent : MEDO VERO

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 19.03.2024

Heard Mr. Z. Kulnu, learned counsel for the petitioner and Mr. M. Vero, learned counsel for the respondent No. 1. Also heard Mr. K. Angami, learned Public Prosecutor for the State respondent No. 2.

2. In this petition, under Section 482 of the Cr.P.C., the petitioner,

M/s North East Marketing Co., situated at Kalibari road, Dimapur, Nagaland, represented by Shri A. Yanger Jamir, has prayed for quashing the FIR of SBN P.S. Case No. 0069/22, under Sections 409/420 of the IPC.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by Shri A. Yanger Jamir of North East Marketing Co. on 30.09.2022.

4. The essence of allegation made in the FIR dated 30.09.2022, is that by profession, the informant is a businessman dealing with essential commodities and he had supplied essential commodities of his firm to Shri Arun Singh, proprietor of M/s Vikash Store, situated at Chumukedima, Nagaland, who is the respondent No. 1 herein, on regular basis and there is an outstanding due of Rs. 8,44,895/- only with the said shop/owner. Thereafter, he came to know that the owner of the said shop fled away from Nagaland without paying his outstanding dues for the goods he had sold on credit.

5. Upon the said FIR, the Officer-in-charge of Sub-Urban Police Station, Dimapur has registered a case, being SBN P.S. Case No. 0069/2022, under Sections 409/420 of the IPC, and thereafter, started investigation. And while the investigation was going on, the petitioner and the respondent No. 1 entered into a settlement and also executed one deed of compromise and on the basis of the said deed of compromise, the petitioner has approached this Court by filing the present petition under Section 482 of the Cr.P.C.

6. Mr. Kulnu, learned counsel for the petitioner submits that after registration of the case, the respondent No. 1 has returned the entire amount to the petitioner and thereafter, executed a deed of compromise which is enclosed with the petition as Annexure P-4, at

page 16 of the petition, and as the matter has already been comprised, the petitioner is not willing to pursue the aforesaid case and therefore, it is prayed that the FIR of SBN P.S. Case No. 0069/22, under Sections 409/420 of the IPC, may be quashed.

7. Mr. Vero, learned counsel for the respondent No. 1 submits that since the matter has been compromised between the parties, and the amount due to the petitioner has already been paid by the respondent No. 1, he has no objection in the event of allowing the petition.

8. Mr. Angami, learned Public Prosecutor for the State of Nagaland also submits that since the matter has been settled between the parties, the State of Nagaland has no objection in the event of quashing the FIR.

9. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record.

10. It appears from the Annexure P-4, at page 16 of the petition, specially from paragraph 4, that the matter has been settled between the parties and that the parties will have no grievance in future in respect of the matter in issue. Further, it appears from the FIR dated 30.09.2022 that the dispute between the parties has arisen out of a commercial transaction and now the entire dispute has been resolved. Besides, the case is overwhelmingly and predominantly is of civil flavor and the wrong is basically private in nature.

11. In the case of *Gian Singh Vs. State of Punjab*, reported in (2012) 10 SCC 303, the Hon'ble Supreme Court while dealing with the issue of quashing of FIR and criminal proceeding, has held that:

“61. The position that emerges from the above discussion can be summarised thus : the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. 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. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of

law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

12. Here in this case, since the parties have settled the dispute amicably and are no longer willing to pursue the same, this Court is of the considered opinion that ends of justice would be met if the petition is allowed and the FIR dated 30.09.2022 is quashed. Moreover, since the parties have settled the matter amicably, there is no likelihood of ending the case in conviction as the petitioner is unlikely to depose against the respondent No. 1 before the Court during trial and as such, allowing the case to continue would be an abuse of the process of the Court.

13. Having considered above and also considering the submission of learned Advocates of both sides and also relying upon the decision of Hon'ble Supreme Court in the case of *Gian Singh (supra)*, this Court is inclined to allow the petition. Accordingly, the FIR of SBN P.S. Case No. 0069/22, under Sections 409/420 of the IPC, stands quashed.

14. In terms of above, this petition stands disposed of.

Sd/-

JUDGE

Comparing Assistant