GAHC040015352026

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

Case No. : Crl.Petn./295/2026

Koncho Tsering Kee and 3 Ors
Son of Late Lama Tashi Kee, resident of Teli Village, PO and PS Tawang, District Tawang, Arunachal Pradesh. 2: Tagam Kare
Age:
Occupation :
Son of Shri Tade Kare
permanent resident of Kare Village
PO and PS Daporijo
Upper Subansiri District
Arunachal Pradesh.

3: Koncho Tsering
Age:
Occupation :
Son of Nima Tsering
resident of Gandhi Colony
Bomdila
West Kameng District
Arunachal Pradesh.

4: Miss XYZ
Age:
Occupation :
represented by the father (petitioner No.3) resident of Gandhi Colony
Bomdila
West Kameng District
Arunachal Pradesh

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Jambey Tsering Kee, Dejum Tally,Techi Topu

Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MR. JUSTICE ANJAN MONI KALITA

ORDER

Date : 15.09.2026

Heard Mr. D. Tally, learned counsel appearing for the petitioners. Also heard Ms. L. Hage, learned Addl. P.P., representing the State.

2. The instant petition has been filed under Section 528 of BNSS, 2023, jointly by the petitioners for quashing and setting aside of the FIR dated 18.08.2026, registered as Bomdila P.S. Case No. 23/2026, under Sections 125(a)/281 of BNSS, 2023 read with Section 187 of the Motor Vehicles Act, 1988.

3. An FIR was lodged on 12.08.2026 before the Officer-in-Charge, Bomdila Police Station by one Shri Koncho Tsering (the informant/petitioner No. 3), alleging that on 10.08.2026, at about 12:30 PM, a Kia Sonet, black color, driven in a rash, reckless, and negligent manner, hit his daughter from behind. It is alleged that due to the accident, the girl fell down on the ground and sustained injuries. It is also alleged that the injuries were of grievous nature as per the medico-legal certificate and hospital records.

4. It is seen that the instant petition has been jointly filed by petitioner No. 1, Koncho Tsering Kee, who was driving the vehicle, whereas petitioner No. 2, Tagam Kare, was sitting inside the vehicle, who is the owner of the vehicle. And Shri Koncho Tsering, petitioner No. 3, is the father of the victim girl, and Miss XYZ (name not disclosed) is the victim in the aforesaid incident.

5. The learned counsel appearing for the petitioners submit that after the

incident, the father of the minor victim girl, as well as petitioner Nos. 1 and 2, have sat down together and decided to mutually settle the issue in between them. He further submits that after due discussion between the parties, the Driver, petitioner No. 1, the owner of the vehicle, i.e., the petitioner No. 2, and the father of the injured minor girl, i.e., the petitioner No. 3, have executed a Deed of Agreement dated 11.09.2026 at Bomdila, wherein they have stated that they have settled the issues and disputes between them, and the father of the victim girl and his family will have no grievances against the Driver petitioner no. 1, owner of the vehicle, i.e., the petitioner No. 2, if the matter is amicably settled outside the court. It is also stated that the injuries sustained by the minor girl have already been attended to, and the father of the minor girl does not have any grievance or claim against petitioner Nos. 1 & 2. It is also stated in the agreement that the victim minor girl has also agreed to the agreement executed by the father on behalf of her. In view of the aforesaid mutual settlement and subsequent execution of the agreement, the learned counsel appearing for the petitioners submit that since the petitioners have amicably settled the issue amongst them and there is no grievance of the victim girl and her family against petitioner Nos. 1 and 2, and since the matter is not related to any heinous crime, the instant petition can be allowed by quashing the FIR dated 18.08.2026 lodged by petitioner No. 3 against petitioner Nos. 1 and 2.

6. Ms. L. Hage, the learned Addl. P.P., submits that the investigation in the case is in an initial stage but, since the parties have settled their issues by way of executing an agreement, wherein the minor girl, who is 16 years of age, has also agreed to the settlement arrived at, she does not have any objection in disposing of the case by quashing the FIR.

7. The submissions made by the learned counsel appearing for the respective parties have been heard and given due consideration by this court. It is seen that the father of the victim girl, i.e., the petitioner No. 3, has already settled the issue

with the petitioner Nos. 1 and 2 by entering into a Deed of Settlement dated 11.09.2026, wherein it has been specifically mentioned that the family of the victim girl, including the victim girl, does not have any objection in settling the issue with the petitioner Nos. 1 and 2.

8. It is also seen from the agreement that the victim, who is a minor, has been properly medically attended to and she has already been released from Hospital and she has recovered from the injuries she sustained.

9. In view of the aforesaid settlement of the matter and considering the offense alleged to have been committed is not a major offense or a heinous crime having a serious impact on the society, this court is of the considered opinion that the present case is one where inherent powers of this court under Section 528 of the BNSS, 2023 can be invoked, as the chances of conviction are far too bleak and remote, and the continuance of such proceeding, as in the present case, would be futile and an abuse of the process of law.

10. This court has also considered that the investigation in the matter has not been completed as yet; however, since the opposing parties have already settled their issues, this court finds nothing to keep the FIR going.

11. The law relating to quashing of criminal proceedings in non-compoundable offenses on the basis of compromise between the parties under Section 528 of the BNSS has been enunciated by the Hon'ble Supreme Court in the case of ***State of Madhya Pradesh vs. Laxmi Narayan and Others***, reported in ***(2019) 5 SCC 688***. Paragraph 15 of the aforesaid judgment, being relevant, is extracted hereinbelow: -

> "**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 impart 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."

12. Having regard to the facts and considering that the dispute between the petitioner Nos. 1 & 2 with the petitioner Nos. 3 & 4 is primarily of private nature, and as the parties have already come to a mutual agreement by settling their whole differences by executing the Deed of Settlement dated 11.09.2026, and also taking into account the principle laid down by the Hon'ble Supreme Court in the case of ***Laxmi Narayan and Others (supra)***, this court is of the considered opinion that the instant case is one where the inherent powers of this court under Section 528 of the BNSS, 2023 could be invoked.

13. Consequently, the FIR No. 23/2026 dated 18.08.2026, registered under Sections 125(a)/281 of BNS, 2023 and Section 187 of Motor Vehicles Act, 1988, is hereby quashed.

14. In terms of the aforesaid, the instant criminal petition is disposed of.

JUDGE

Comparing Assistant