GAHC010040852020

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

**Case No. : Crl.Pet. 159/2020**

1:MIZANUR RAHMAN
S/O- IBRAHIM ALI, R/O- PORABHARAL, P.S. BARPETA, DIST.- BARPETA, ASSAM.

VERSUS

1:THE STATE OF ASSAM AND ANR.
REP. BY PP, ASSAM.

2:AYUB KHAN
S/O- LT. ABDUL HUSSAIN KHAN
R/O- BOGAIJANPARA
P.S. HOWLY
DIST.- BARPETA
ASSAM
PIN- 781316

**Advocate for the Petitioner** : MR S M ABDULLAH P

**Advocate for the Respondent** : PP, ASSAM

**BEFORE**
**HON'BLE MRS. JUSTICE RUMI KUMARI PHUKAN**

O R D E R

**22-05-2020.**

By this application under Section 482 of the CrPC, petitioner Mizanur Rahman has sought for quashing of the charge sheet as well as the proceeding pertaining to G.R. Case No.3307/2017 (corresponding

to Howly P.S. Case No.320/2017), under Section 366(A)/294/34 of the IPC, pending in the Court of learned CJM, Barpeta.

Heard the submission of Mr. S.M. Abdullah, learned counsel for the petitioner as well as Mr. N. Kalita, learned Addl. P.P., Assam for the State/respondent No.1 and Mr. S.H. Sikdar, learned counsel appearing for and on behalf of the informant/respondent No.2, who has entered his appearance before this Court today itself.

It has been contended by the learned counsel that although the petitioner has been implicated in the FIR filed by the informant/respondent No.2, that the petitioner has kidnapped his sister-in-law as on 03.07.2017 but referring to the statement of the victim annexed, which was recorded u/s.164 of the CrPC, it has been contended that the victim girl has not implicated the present accused person but rather she stated that she went with him out of love and affection. On the other hand it is also contended that the petitioner by this time has married the victim girl as she turned major and they are living as husband and wife and as such has prayed for quashing of the entire proceeding, including the charge sheet vide Charge Sheet No.148/2017, filed against the accused/petitioner.

Today the learned counsel for the informant has also appeared and supported the contention of the petitioner that in fact the case was filed due to mis-understanding and the parties have already entered into marriage and the informant has also sworn an affidavit to this effect vide Annexure-5, annexed with the petition. It is also an admitted fact that the victim girl has already given her statement vide Annexure-2, which is in favour of the accused person, wherein the victim girl has specifically stated that she has love and affection with the accused person since three years back and she eloped with him out of such love and affection. The learned counsel for the informant has also fairly submitted that they are not interested to proceed with the matter, in view of the settlement and the marriage between the parties.

The learned counsel for the State respondent Mr. N. Kalita has also submitted that considering the factum of marriage between the parties as well as the statement of the victim, it is apparent that the victim as well as the informant will not support the case of the prosecution and in the circumstances, the prayer of the petitioner can be considered.

Having regard to the fact discussed above, although the victim was minor at the time of occurrence, she has not anyway implicated the accused petitioner with the offence alleged. The marriage between the parties is an admitted fact by this time, as the *Kabilnama* has also shown to the Court today and the girl has turned major.

In the back drop of the case, it can be inferred that the informant and the victim will not support the

case, if the proceeding is allowed to proceed and there is bleak chance of conviction. In that view of the matter, it will be nothing but abuse of the process of law as well as detrimental to the marital life of the victim girl, if such criminal proceeding is allowed to prevail. Settlement in the given circumstances can be permitted which appears to be genuine and without any coercion.

In Gian Sing vs. State of Punjab, reported in (2012) 10 SCC 203, followed in Narendra Singh vs. State of Punjab, reported in (2014) 6 SCC 466, it has been held by the Hon'ble Apex Court that the matrimonial offences should be allowed to settle at any stage of proceeding and the same can be taken into account in a petition filed under Section 482 of the CrPC.

Considering all entirety of the matter, proceeding of the G.R. Case No.3307/2017, under Section 366(A)/294/34 of the IPC including the charge sheet, as indicated above, pending in the Court of learned CJM, Barpeta is hereby quashed and set aside.

The petition stands disposed of accordingly.

**JUDGE**

**Comparing Assistant**