

GAHC020004982025



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

Case No. : Crl. Pet./27/2025

MR. ABDUL SUKKUR AND 2 ORS
S/O ALIM UDDIN,
R/O HARI NAGAR,
PS. KATI GORA,
DIST- CACHAR ASSAM

2: KULO SINGH
S/O LT. BULO SINGH
R/O JARIBON MAYALIKAI
PO/PS LOLA
CACHER SILCHAR ASSAM

3: ABDUR RAHIM
S/O OTIGUL HUQUE
R/O KURIKHALA
KARIMGANJ
ASSAM
PRESENT R/O NEW MARKET COLONY
KOHIMA NAGALAN

VERSUS

STATE OF NAGALAND
NAGALAND KOHIMA

Advocate for the Petitioner : SHIMSAK RAILI, MEYOHU CHUZHO

Advocate for the Respondent : P.P, NAGALAND,

**BEFORE
HON'BLE MR. JUSTICE RAJESH MAZUMDAR**

ORDER

Date : 19-08-2025

Heard Mr. Meyohu Chuzho, learned counsel for the petitioners and also heard Mr. K Angami, P.P, Nagaland for the State respondent.

2. The present petition has been filed under section 482 Cr. P.C/582 BNSS by the three petitioners praying for quashing of the FIR No. 0030 dated 25/08/2019 and the criminal proceedings bearing case No. GR 85/2019, North Police PS No. 20/2019 under Section 457/380/34 IPC.

3. The case as projected in the pleadings is that the petitioner No.3 had lodged an FIR before the Officer in Charge, North Police Station, Kohima Nagaland that around 7:00 AM in the morning of 18.08.2019, stating that one Subhodh Kumar had informed him that one door of the market complex where he had a shop was found open. Upon rushing to the location, he found that his shop had been broken into and several brand new mobiles and about 13 mobiles which were kept in his custody for repairs had been stolen from his shop. He gave the particulars of the few mobiles that he could collect and accordingly, requested the authorities to register a case and investigate into the matter. The FIR was registered as North Police Station Case No 0030/19 on 25.08.2019 under section 457/380/34 IPC. It further appears from records that the petitioner No. 1 and 2 were arrested on 24.08.2019 during investigation of the case and on their filing applications for grant of bail, they were granted bail on 05-09-2019 and 07-09-2019 respectively. The charge sheet bearing No. 0022/2019 dated 21/9/2019 has since been filed and further progress in the matter is not divulged in the petition. On the basis of a "compromise deed" entered into between the informant and

the accused, this petition has been filed with prayers to quash the FIR and the proceedings emanating from it.

4. Since on the date of the first listing, it was noticed that the pleadings did not contain a copy of the FIR, the petitioners were afforded an opportunity to place on record a copy of the FIR. The same was brought on record by an additional affidavit filed on 10-8-2025.

5. Mr. Meyohu Chuzo, learned counsel for the petitioners has drawn out attention to the compromise deed executed on the 25th day of February 2022 at Kohima between the accused and the informant. He has submitted that a bare perusal of the compromise deed would reveal that the accused have tendered unconditional apology to the informant and have begged his forgiveness for their unlawful action on 17-08-2019 and based on such apology, the informant has decided to forgive their mistake and withdraw the case. He further submits that it will be apparent from the deed under consideration that the accused have returned all the lost items to the informant. The learned counsel has further submitted that in view of the present compromise entered into by the parties, there is scant possibility of conviction, in case the prosecution of the accused is allowed to proceed and that allowing such prosecution to proceed will not lead to any fruitful result. The learned counsel has referred to the decision of the Apex Court in the case of **Gian Singh -vs- State of Punjab and another (2012) 10 SCC 303**, the decision of the High Court of Punjab and Haryana rendered by order dated **16.10.2024 in CRM-M-42974 of 2024** and the decision of the High Court of Sikkim rendered by order dated **29.08.2022 in Crl. M.C. No. 06 of 2022** to emphasize that the High Court may exercise its inherent jurisdiction to quash criminal proceedings having regard to the fact that the offender and the victim have settled their disputes although the offences alleged are not compoundable if, in its discretion, the Court forms an opinion that continuation of the criminal proceedings will be an exercise in futility. He

submitted that securing justice is the ultimate guiding factor. He further submits that the offence committed by the accused are not offences which display any mental depravity. He has submitted that it would be apparent from the judgments referred to that even in cases involving dowry, which otherwise is considered a social offence, the Courts may proceed to quash the proceedings if it is satisfied that on the face of a settlement, there is hardly any likelihood of offender being convicted.

6. Per contra, Mr. K. Angami, learned P.P has strenuously opposed the prayers for quashing of the criminal proceedings. Mr Angami, learned PP has submitted that the offence alleged against the accused are grave offences, which do not relate only to the person who suffered a theft of his commercial property, rather, it is offence against the society, prosecution of which does not deserve to be quashed in the manner prayed for. The learned PP has submitted that it would be apparent from the charge-sheet submitted that there are enough evidence against the accused persons and the chances of securing a conviction are not bleak, but rather are high. The learned PP has submitted that even if an attempt is made to believe that the parties have entered into a compromise in the year 2022, it is not comprehensible as to why they waited for more than 3 years to approach this Court. The learned PP has referred to the case of **Gian Singh vs State of Punjab and Another (2012) 10 SCC 303** to emphasize that the said judgment is categorical in holding that offences which are against the society at large and which are heinous and serious offences do not deserve to be quashed. The learned PP has submitted that the offence of committing housebreaking and theft by night are not trivial in nature and the accused ought not be given the benefit of not being proceeded against only on the ground that the victim has forgiven him. He has prayed that the present petition be dismissed, allowing the law to take its course in the criminal proceedings.

7. The arguments led by the learned counsel for the petitioners and

the learned Public Prosecutor for the State have received my due attention. I have perused the records placed with the petition and have duly considered the relevant case laws pressed into service for the parties.

8. The facts in the case are not in dispute. The shop of the informant was broken into and theft had occurred in the shop of the informant. The accused are suspected to be involved in the matter. As per the compromise deed, the stolen articles have been returned by the accused to the informant, who has acknowledged receipt of the same. Neither party want to proceed with the trial.

9. Since both the parties have placed reliance on the judgment of the Apex Court in **Gian Singh -vs- State of Punjab and another (2012) 10 SCC 303**, a reference to the relevant paragraphs of the same will be fruitful at this stage.

“49. [Section 482](#) of the Code, as its very language suggests, saves the inherent power of the High Court which it has by virtue of it being a superior court to prevent abuse of the process of any court or otherwise to secure the ends of justice. It begins with the words, ‘nothing in this Code’ which means that the provision is an overriding provision. These words leave no manner of doubt that none of the provisions of the Code limits or restricts the inherent power. The guideline for exercise of such power is provided in [Section 482](#) itself i.e., to prevent abuse of the process of any court or otherwise to secure the ends of justice. As has been repeatedly stated that [Section 482](#) confers no new powers on High Court; it merely safeguards existing inherent powers possessed by High Court necessary to prevent abuse of the process of any Court or to secure the ends of justice. It is equally well settled that the power is not to be resorted to if there is specific provision in the Code for the redress of the grievance of an aggrieved party. It should be exercised very sparingly and it should not be exercised as against the express bar of law engrafted in any other provision of the Code.

50. In different situations, the inherent power may be exercised in different ways to achieve its ultimate objective. Formation of opinion by the High Court before it exercises inherent power under

[Section 482](#) on either of the twin objectives, (i) to prevent abuse of the process of any court or (ii) to secure the ends of justice, is a *sine qua non*.

51. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim *quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest*. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. *Ex debito justitiae* is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under [Section 482](#) of the Code is of wide amplitude but requires exercise with great caution and circumspection.

52. It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under [Section 482](#); No precise and inflexible guidelines can also be provided.

53. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under [Section 320](#) is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in [Section 320](#) and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

54. Where High Court quashes a criminal proceeding having

regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crime- doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.”

10. It is seen from the records that the informant in the FIR had alleged that several brand new mobile phones and 13 mobile phones which were kept in his custody were found to be missing due to the theft. The charge-sheet reflects that some recovery was made from the shop of the accused viz the petitioner No 1. who also had a shop in the same locality. The items recovered and seized by the police during investigation

are described in the charge-[sheet but they do not match the description of the items alleged to have been stolen from the shop of the informant. The charge-sheet also refers to alleged confession of the accused. These evidence collected during the investigation, in the opinion of the Court may not be sufficient to secure a conviction for the accused. This, coupled with the fact that the informant, who was also the alleged victim has entered into a compromise not to pursue the proceedings, has also persuaded this Court that the chances of securing a conviction against the accused have become thin and bleak.

The offences alleged against the accused do not indicate mental deprivation of the accused. There can be no doubt in the mind of the Court that the offences alleged of theft fall in the class of offences against the society also, but in the present case, both the accused and the informant having similar business in close locality and both having entered into a common intention to let bygones be bygones by executing the compromise deed, this Court is of the opinion that no fruitful purpose would be served by allowing the prosecution of the accused to continue. The alleged incident occurred in August 2019 i.e. 6 years ago.

In coming to a conclusion as to whether the proceedings involved in the present case deserve the interference of the Court at this stage, we are guided by the observations of the Hon'ble Apex Court in the case of Narinder Singh -VS- State of Punjab reported in (2014) 6 SCC 466, where it was held that

“While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show

benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above.”

In the present case, it has been stated at the bar that the proceedings in the Trial Court have been kept in abeyance. In the circumstances prevailing, there would be little reason to continue the proceedings against the accused/petitioners herein, more so, when the informant/victim has agreed to forgive them.

11. Consequently, this petition stands allowed. Accordingly, the impugned the FIR No. 0030 dated 25/08/2019 and the criminal proceedings bearing case No. GR 85/2019, North Police P.S No. 20/2019 under Section 457/380/34 IPC stand quashed on the basis of the compromise deed dated 25-2-2022 entered into by the informant and the accused, all of whom are petitioners before this Court.

12. Before parting with the records, this Court is constrained to make certain observations which came to its notice while perusing the records annexed to the petition. The order dated 05.09.2019 passed by the Learned Judicial Magistrate 1st Class, Kohima in CMC no 127/2019 (Annexure-B to the petition) records that the learned APP had submitted that the I.O of the case had already submitted the chargesheet in the case. It was on that basis that bail was granted to the accused, who is petitioner No.1 herein. Contrast to this, at Annexure C of the petition, the copy of the chargesheet has been provided, where the charge-sheet is numbered as 0022/2019 dated 21/9/2019. This Court finds this aspect of the matter disturbing.

If the charge-sheet was submitted on 21/9/2019, the statement made in the Court during consideration of the bail on 05.09.2019 that the charge-sheet was already submitted was incorrect. The Learned Court considering the bail also did not verify the correctness of the statements made regarding submission of the charge-sheet or regarding completion of investigation. Another aspect which has caught the attention of the

Court is that the copy of the order granting bail to the second accused, namely Kulo Singh, does not contain the complete date at the beginning of the order and that day also a submission was made that the case had been charge-sheeted but "final form was yet to be submitted". This Court is refraining from commenting on the manner in which the proceedings were handled during consideration of the bail of the accused, with a hope that more diligence will be exercised during court proceedings.

13. Petition stands disposed of accordingly. No costs.

Sd/-

JUDGE

Comparing Assistant