

GAHC020006182024

2025:GAU-NL:38



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

Case No. : Crl. Pet./47/2024

SHRI INITO TUCCU
S/O LT. TOIHO TUCCU
R/O H.NO. 52
THILIXU VILLAGE
CHUMOUKEDIMA NAGALAND

VERSUS

THE STATE OF NAGALAND AND 2 ORS
NAGALAND KOHIMA

2:SHRI GHOKIYE ACHUMI
FATHER OF LT. ABOTO ACHUMI
R/O NIHOTO VILLAGE
NIULAND NAGALAND-797109

3:SHRI ANGUTO SWU
S/O SHIHOTO SEMO
R/O ADMINISTRATION HILL COLONY
KHUKIYE LUKHAI
SATAKHA ZUNHEBOTO-79862

Advocate for the Petitioner : VINNOKA ACHUMI, QHETO A CHOPHY

Advocate for the Respondent : P.P, NAGALAND,

**BEFORE
HON'BLE MR. JUSTICE KAKHETO SEMA**

JUDGMENT & ORDER (CAV)

Date : 17-02-2025

Heard Mr. Vinoka Achumi, learned counsel for the petitioner, Ms. S. Mere, learned Public Prosecutor for the respondent No.1 and Ms. Nagali Shohe, learned counsel for the respondent No.2 & 3.

2. The present petition has been filed under section 482 Cr.PC to quash the FIR No. 0084/2023 dated 27/10/2023, the Charge Sheet No. 0008/2024 dated 19/02/2024 filed in connection with Diphupar P.S Case No. 0084/2023 and the criminal proceedings in G.R Case No. 712/2023 which is pending trial before the learned Judicial Magistrate 1st Class, Dimapur, Nagaland.

3. The facts of the case in brief is that on 26/10/2023, the Government vehicle bearing Registration No. NL-10C-0749 attached to one Shri. Nchumbemo Odyuo which was unauthorizedly driven by the petitioner hit one Aboto Achumi resulting in his death and seriously injuring Shri. Anguto Swu, the petitioner No.3. Shri. Sumenro Odyuo was also sitting in the said vehicle when the accident occurred. As a result of the accident, Shri. Ghokiye Achumi, the petitioner No. 2 and the father of the deceased/victim filed the complaint dated 27/10/2023 with the Officer-in-Charge, Traffic Control Room, Chumukedima, Nagaland, and consequent to which the Diphupar P.S registered the Case No. 0084/2023 under section 279/304 A IPC r/w section 184 of the M.V Act. Both the petitioner and Shri. Sumenro Odyuo were arrested by the Police in connection with the case. Mr. Sumenro Odyuo was however released on PR Bond and the investigation proceeded only against the petitioner. On completion of the investigation, the Police submitted the Charge-Sheet No. 0008/2024 dated 19/02/2024 against the petitioner under section 279/304 A IPC and section 181/184 of the M.V Act, 1988. The case is presently pending trial for consideration of charges before the learned Judicial Magistrate 1st Class Dimapur, Nagaland.

4. Mr. Vinoka Achumi, the learned counsel for the petitioner, has submitted that during the pendency of the trial, Shri. Anguto Swu, the injured/respondent No. 3, Shri.

Nchumbemo Odyuo, the allottee of the vehicle involved in the accident and Shri. Tovi Tuccu, the brother of the petitioner had executed the letter of settlement dated 29/10/2023 amicably settling the matter amongst them, with the involvement of the family members. Thereafter, on 03/11/2023, an agreement was executed between Smti. Octoli Tuccu, the sister of the petitioner and Shri. Irato Swu, the brother of the injured/respondent No.3 in which it was agreed that the injured/respondent No.3 would be compensated with Rs. 5,00,000/- (Rupees Five lakhs) in 3(three) instalment of Rs. 2,00,000/-, Rs. 1,50,000/- and Rs. 1,50,000/- for defraying the medical expenses of the injured. The petitioner's family has accordingly paid the first and the second instalment to the injured victim and the third and final instalment of Rs. 1,50,000/- was agreed to be paid on 31/12/2023.

5. The learned counsel for the petitioner had also submitted that on 07/11/2023, a compromise deed was executed between Shri. Ghokiye Achumi, the respondent No.2 and the father of the deceased Aboto Achumi, Shri. Nchumbemo Odyuo, the allottee of the offending vehicle and Shri. Tovi Tuccu, the brother of the petitioner, in the presence of family members and well wishers, in which the father of the deceased had agreed to amicably settle the matter by forgiving both the allottee of the vehicle and the petitioner. The petitioner was thereafter released on bail on 17/11/2023.

6. The learned counsel for the petitioner further submits that the agreement dated 06/12/2023 was signed between the petitioner and the injured/respondent No.3 in which the injured/respondent No.3 had acknowledged the receipt of the total compensation amount of Rs. 5,00,000/- from the petitioner and the allottee of the vehicle, towards the medical expenses.

7. The learned counsel for the petitioner by referring to the compromise/agreement executed between the parties submits that as the dispute has been amicably settled between them, this Court may graciously accept the compromise/settlement executed between the parties and quash the FIR No. 0084/2023 dated 27/10/2023, the Charge Sheet No. 0008/2024 dated 19/02/2024 filed in connection with Diphupar P.S Case No. 0084/2023 and the criminal proceedings in G.R Case No. 712/2023 which is pending trial before the learned Judicial Magistrate 1st Class, Dimapur, Nagaland, in exercise of

the power under section 482 Cr. P.C. In support of his submission, the learned counsel has relied in the case of **Narinder Singh & Others -versus- State of Punjab & Another**, reported in **(2014) 6 SCC 466**.

8. Ms. S. Mere, the learned P.P for the respondent No.1 submits that since the parties have amicably resolved the dispute between them by executing the agreement/compromise etc. the matter is left to the discretion of the Court. Ms. Nagali Shohe, the learned counsel for the respondent No. 2 & 3 adopts the same line of submission as that of the learned P.P and further submits that in view of the compromise entered between the parties, the respondent No. 2 & 3 desires not to prosecute the case against the petitioner.

9. The petitioner is facing trial for offences under section 279/304 A IPC r/w section 181/184 M.V Act, 1988. The offence under section 279/304 A IPC are non-compoundable. Hence, the present petition.

10. Heard the learned counsels for the parties.

11. This Court has perused the letter of settlement dated 29/10/2023, the agreement dated 03/11/2023 and 06/12/2023 in terms of which the petitioner and his family has paid the compensation amount of Rs. 5,00,000/- to the injured/respondent No.3 for defraying the medical expenses incurred by the injured. This Court has further perused the compromise deed dated 07/11/2023 by which the father of the deceased late Aboto Achumi had forgiven the petitioner in the presence of host of relatives and well wishers and amicably settled the matter.

12. On careful assessment of the facts of the case, this Court is of the considered view that, the offence charged against the petitioner is not of such a nature so as to adversely endanger the well being of the society or affect public peace and tranquillity but personal to the petitioner and the respondent No. 2 & 3. Moreover, the trial of the case is only at the stage of framing charge and in view of the compromise/settlement entered between the parties, it is very unlikely that the respondent No.2 & 3 will testify against the petitioner during the trial of the case. Even otherwise, the petition has not been opposed by the State respondents as well as by the respondent No. 2 & 3. On the other hand, it is the desire of the respondent No. 2 & 3 not to prosecute the case against the petitioner.

13. In the light of the facts narrated in the preceding paragraphs, this Court is of the view that no useful purpose will be served in continuing with the trial of the case against the petitioner, more so, in view of the compromise executed between the parties. This Court is accordingly of the considered view that the continuance of the criminal trial/proceedings may in every likelihood turn out to be an exercise in futility without anything positive being ultimately achieved and thereby frustrating the trial of the case.

14. In the case of **Yogendra Yadav & Others -versus- State of Jharkhand & Another**, reported in **(2014) 9 SCC 653**, the Hon'ble Supreme Court has inter-alia held that in a given case, the High Court can quash the proceedings in exercise of its power under section 482 of the Code having regard to the fact that the parties have amicably settled their dispute and the victim has no objection even though the offences are non-compoundable. It was also held that the offences which involved moral turpitude, grave offence like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society and such offences cannot be said to be restricted to two individual or groups. It was further held that when the High Court is convinced that the offences are entirely personal in nature and therefore, do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of the compromise would bring about peace and would secured the ends of justice, it should not hesitate to quash them, as in such cases, the prosecution becomes a lame prosecution.

15. In the case of **Madan Mohan Abbot -versus- State of Punjab**, reported in **(2008) 4 SCC 582**. The Hon'ble Supreme Court has held that;

“6. We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of

the technicalities of the law.”

16. In the case of Narinder Singh & Others (supra) relied by the learned counsel for the petitioner, the Hon’ble Supreme Court while summing up the principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its powers under section 482 of the Code while accepting the settlement and quashing the proceedings or refusing the settlement with direction to continue with the criminal proceedings has inter-alia held that those cases where the charged is framed but evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its power favourably but after prima facie assessment of the circumstances/material mentioned above. In the present case, the trial is only at the stage of consideration of charges coupled with the fact that the offence with which the petitioner is charged is personal to the petitioner and the respondent No. 2 & 3 and the parties have amicably compromise the dispute.

17. In the light of the discussions made above and the law laid down by the Hon’ble Supreme Court, this Court is of the view that the continuation of the criminal proceeding against the petitioner would amount to abuse of the process of law. The offence charged against the petitioner are not serious in nature showing extreme depravity nor are they against the society and the acceptance of the compromise would bring peaceful and harmonious co-existence between the two parties ushering in peaceful co-existence between the family members of the petitioner and the respondent No. 2 & 3.

18. Accordingly, this Court, is inclined to accept the compromise/settlement entered between the petitioner and the respondent No. 2 & 3. Consequently the FIR No. 0084/2023 dated 27/10/2023, the Charge Sheet No. 0008/2024 dated 19/02/2024 filed in connection with Diphupar P.S Case No. 0084/2023 and the criminal proceedings in G.R Case No. 712/2023 which is pending trial before the learned Judicial Magistrate 1st Class, Dimapur, Nagaland, are hereby quashed.

- 19.** Petition allowed. No cost.
- 20.** The scanned copies of the LCR be returned to the learned P.P forthwith.

JUDGE

Comparing Assistant