GAHC020008272024 2025:GAU-NL:27

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

Case No. : Crl. Pet./58/2024

SHRI THEPFURUDUO KENSE AND 3 ORS
S/O LATE THENYISE, VILLAGE-TSIEMEKHUMS,
DISTRICT-KOHIMA, NAGALAND

2: SHRI NEILALIE KENSE
S/O LATE THENYISE KENSE
VILLAGE-TSIEMEKHUMA
DISTRICT-KOHIMA
NAGALAND

3: SHRI NEINGULIE METHA
@ NEINGULUE THEPA
S/O PULHOULIE METHA
VILLAGE-TSIEMEKHUMA VILLAGE
KOHIMA DISTRICT
NAGALAND

4: SHRI PULHOULIE METHA
@PHOULHOULIE THEPA
VILLAGE-0TSIEMEKHUMA VILLAGE
DISTRICT-KOHIMA
NAGALAN

VERSUS

THE STATE OF NAGALAND
KOHIMA, NAGALAND

Advocate for the Petitioner : T. KHEZHIE,
ROVIMENO THOU,
THEJA VITSU,

N KERETSU

Advocate for the Respondent : E.THIBA PHOM, P.P.

BEFORE
HON'BLE MR. JUSTICE KAKHETO SEMA

JUDGMENT & ORDER (ORAL)

Date : 10-02-2025

Heard Ms. Rovimeno Thou, the, learned counsel for the petitioners and Mr. E. Thiba Phom, learned P.P. for the sole State respondent.

2. The present petition has been jointly filed by the petitioners under section 528 BNSS for quashing the Charge sheet No. 05/16 dated 04/06/2016 filed in connection with CPBZU P.S Case No. 0007/16 dated 04/05/2016 and the criminal proceeding in G.R Case No. 89/2016 which is pending before the learned Judicial Magistrate 1st Class Kohima.

3. The petitioner No. 1 & 2 are the alleged accused in the case, referred to, in the preceding paragraph, the petitioner No.3 is the victim and the petitioner No.4 is the complainant and the father of the victim.

4. The facts of the case in brief is that on 01/05/2016 at around 7:00 P.M the petitioner No. 3 along with two other persons were returning from Botsa to their native village, Tsiemekhuma Basa. On nearing the Tsiemekhuma village gate they found a car parked in the middle of the road obstructing the free flow of traffic. On approaching the car they found the petitioner No.1 & 2 along with one Mezhuvilie Thepa sitting inside the car. The petitioner No.3 on inquiry as to why the car was blocking the road, an altercation arose resulting in the petitioner No.1 assaulting the petitioner No.3 with a piece of firewood as a result of which the petitioner No.3 fell unconscious to the ground. The petitioner No.3 was thereafter taken to Oking Hospital, Kohima, for treatment. Thereafter, on 02/05/2016, the petitioner No.4 the father of the victim lodged the FIR against the petitioner No.1 & 2 and Mezhuvilie Thepa, which was registered as CPBZU P.S Case No. 0007/16 u/s 307/326/34 IPC. On completion of the

investigation, the Charge Sheet No. 05/16 dated 04/06/2016 was filed against the said accused persons. The petitioner No.1/accused was charged under section 325/326 IPC and the petitioner No.2/accused was charged under section 109 IPC while Mezhuvilie Thepa was discharged from the criminal liability of the case. During the consideration of the charge, the petitioner No.2 was also charged under section 325 IPC. The case is presently at the stage of adducing prosecution evidence before the learned Judicial Magistrate 1st Class Kohima.

5. Ms. Rovimeno Thou, the learned counsel for the petitioners has submitted that during the pendency of the case, the family members of the petitioners had a series of meetings and following which the petitioner No.3 & 4 has decided to forgive the petitioner No.1 & 2 for the wrongs committed on the petitioner No.3 and has agreed not to pursue the criminal case against the petitioner No.1 & 2 and to this end, the petitioners have also compromised the matter on 03/04/2024 in the presence of the Chairman of Tsiemekhuma Basa Village Council. The learned counsel for the petitioner has also referred to the paragraph-5 of the petition to submit that Tsiemekhuma Basa Village has only about 80(eighty) households and the petitioners well understands the value of peaceful co-existence amongst them. It is also submitted that the petitioner No. 1 & 2 and the petitioner No.3 are related to each other through matrimony. Ms. Rovimeno Thou accordingly submits that the Court may graciously accept the compromise entered between the petitioners and quash the criminal proceedings which is pending before the Judicial Magistrate 1st Class in exercise of the power under section 528 BNSS, 2023. In support of her submission, the learned counsel for the petitioners has relied in the case of **Yogendra Yadav & Others** -versus- **State of Jharkhand & Another**, reported in **(2014) 9 SCC 653**.

6. Mr. E. Thiba Phom, the learned P.P submits that since the parties have amicably resolved the dispute between them by executing the compromise dated 03/04/2024, the matter is left to the discretion of the Court.

7. The petitioner No.1 & 2 are facing trial for offence under section 109/325/326. Of the three sections with which the petitioner No.1 & 2 are charged, section 326 is non-compoundable.

8. The FIR dated 04/05/2016 was filed by the petitioner No.4 against the petitioner No.1 & 2 for inflicting bodily injuries on the petitioner No.3 and for which the petitioner No.1 & 2 are facing trial for offence u/s 109/325/326 IPC. The trial is presently at the stage of adducing evidence of the prosecution witness. This Court has also perused the compromise letter dated 03/04/2024 in which the petitioner No.3 & 4 had decided to forgive the petitioner No. 1 & 2 for the injuries inflicted on the petitioner No.3. This Court has also perused paragraph-5 of the petition where it is averred that Tsiemekhuma Basa Village has only about 80(eighty) households and the petitioners well understands the value of peaceful co-existence amongst them. It has also been averred that the petitioner No.1 & 2 and the petitioner No.3 are related to each other by matrimony. Moreover, the offence charge against the petitioner No. 1 & 2, in the considered opinion of this Court, is not of such a nature so as to adversely endanger the well being of the society or affect public peace and harmony, but personal to the petitioners. Moreover, though the trial of the case has proceeded against the petitioner No.1 & 2, the trial is only at the stage of adducing evidence of the prosecution witnesses and in view of the compromise entered between the parties, it is very unlikely that the petitioner No. 3 & 4 will testify against the petitioner No. 1 & 2 in the case. It is also seen that the case against the petitioner No. 1 & 2 was registered way back on 04/05/2016 and the trial of the case is only at the stage of evidence and yet to be concluded. Considering the facts narrated herein, there is every likelihood that the trial against the petitioner No.1 & 2 may end in futility. Even otherwise, the petition has not been objected to by the State respondents but has left the matter to the discretion of this Court in view of the compromise entered between the parties.

9. In the light of the facts stated in the forgoing paragraphs, this Court is of the view that no useful purpose will be served in continuing with the criminal proceedings in G.R Case No. 89/2016 which is pending before the learned Judicial Magistrate 1st Class Kohima, more so, in view of the compromise entered between the petitioners. This Court is of the considered view that continuance of the criminal trial/process against the petitioner No.1 & 2 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.

10. In the case of Yogendra Yadav & Others (supra), 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.

11. 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.*"

12. 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 No.1 & 2 would amount to abuse of the process of law. The offence charged against the petitioner No.1 & 2 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 existence between the two parties

ushering in peaceful co-existence between the petitioners and their family members.

13. In the circumstances of the case, this Court accepts the compromise dated 03/04/2024 executed between the parties. Consequently, the Charge Sheet No. 05/16 dated 04/06/16 and the criminal proceedings in G.R Case No. 89/2016 which is pending before the Court of the learned Judicial Magistrate 1st Class, Kohima is hereby quashed.

14. The petition is allowed. No cost.

JUDGE

Comparing Assistant