GAHC040005082026

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

Case No. : Crl.Petn./90/2026

Dibang Borang and 3 Ors
Son of Shri Obang Borang, Silluk Village, PO and PS Mebo, East Siang District, Arunachal Pradesh. 2: Miss Tunum Badu
Age:
Occupation :
Daughter of Shri Ana Badu
Depi Village
PO and PS Ruksin
East Siang District
Arunachal Pradesh.

3: Ms Shiumran Tayang
Age:
Occupation :
Daughter of Shri Choblamso Tayang
Tafragam Village
PO and PS Tezu
Lohit District
Arunachal Pradesh.

4: Ms Siya Bellai
Age:
Occupation :
Daughter of Shri Sosing Bellai
Tafragam Village
PO and PS Tezu
Lohit District
Arunachal Pradesh

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Debo K Deori, Rajen Deori

Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MR. JUSTICE SANJEEV KUMAR SHARMA

ORDER

Date : ***23.11.2026***

Heard Mr. D. K. Deori, learned counsel for the petitioners. Also heard Mr. D. Loyi, learned Public Prosecutor for the State.

2. This is an application under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, jointly filed by the petitioners, praying for quashment of the criminal proceedings in G.R. Case No. 15/2024, under Sections 354A(1)(iv)/354D(1)(ii), read with Section 67 of the Information Technology Act, 2000, pending before the Court of learned Chief Judicial Magistrate, Tezu, on the basis of settlement arrived at amongst the parties.

3. The facts, in brief, are that the petitioner No.3, on 08.03.2024, lodged a written complaint before the Officer-in-Charge, Tezu Police Station, Lohit District, Arunachal Pradesh, stating that on 07.03.2024, at around 11:27 p.m., one Shri Dibang Borang of Kepang Village, Pasighat, East Siang District, and his girlfriend, Miss Tunung Badu, had sent a text message to her cousin sister, Miss Siya Bellai, alleging that she was of immoral character and further stating that they would create a morphed nude photograph of her and circulate the same. It was further stated that when the complainant intervened, they made sexually coloured remarks against her and blocked her from communicating with them. The conversations had taken place through WhatsApp and Instagram. To her

surprise, after some time, they sent edited nude photographs of her to her Instagram account. In one of the photographs, they had also mentioned her mobile number and written that she was available for selling her body for Rs. 2,000/-.

4. Accordingly, the case was registered under the aforesaid sections of law, and the matter was investigated into. Upon completion of the investigation, a charge-sheet was also submitted under Sections 354A(1)(iv)/354D(1)(ii) of the IPC, read with Section 67 of the Information Technology Act, 2000.

5. During the course of investigation, the petitioner No.3, the complainant/victim, submitted an application dated 23.06.2025 before the Investigating Officer in connection with Tezu Police Station Case No. 23/2024, registered under Sections 354A(1)(iv)/354D(1)(ii) of the Indian Penal Code, read with Section 67 of the Information Technology Act, 2000, seeking withdrawal of the FIR dated 08.03.2024 lodged against Shri Dibang Borang (petitioner No. 1).

6. In the said application, it was stated that the FIR had been lodged due to certain misunderstandings. However, subsequently, the accused person had contacted her and apologised for his misconduct, which, according to him, had occurred due to some misunderstanding, and that he had never intended to hurt her sentiments or defame her. It was further stated that, considering the tender age of the accused and his sincere apology, she voluntarily expressed her desire to withdraw the FIR.

7. However, the Investigating Officer declined to permit withdrawal of the

FIR on the ground that the case was a warrant case involving non-compoundable offences. Accordingly, the investigation proceeded, and a charge-sheet was ultimately submitted. Thereafter, the learned Chief Judicial Magistrate (CJM), Tezu, Lohit District, took cognizance of the aforesaid offences and issued summons to the accused.

8. Subsequently, as the matter had already been amicably settled between the parties, i.e., the petitioners No. 1, 2, 3 and 4 executed a Compromise Deed dated 21.01.2026, a copy of which has been annexed to the instant application.

9. Since the criminal proceedings are still pending before the learned Trial Court and the offences alleged are non-compoundable in nature, the petitioners have preferred the present application seeking quashing of the criminal proceedings on the basis of the compromise arrived at between the parties.

10. Learned Public Prosecutor also submits that he has no objection to the prayer made by the petitioners, in view of the fact that the matter has already been amicably settled between the parties.

11. The Hon'ble Apex Court, in ***State of Madhya Pradesh vs. Lakshmi Narayan & Ors.***, reported in ***(2019) 5 SCC 688*** has held that criminal proceedings in respect of non-compoundable offences can be quashed if they are of a private nature and not a serious threat to society and the parties have resolved the dispute among themselves. Further, in ***Gian Singh Vs. State of Punjab & Anr.***, reported in ***(2012) 10 SCC 303***, the Apex Court has held that the inherent power of the High Court is to be exercised to prevent the abuse of the process of the Court. It would also be in the domain of the High Court to

exercise its inherent power when there appears to be a bleak possibility of conviction or that the chances of a conviction are remote in view of the compromise affected between the parties. In the said decision the Hon'ble Apex Court has held as follows:

> "*48. A five-Judge Bench of the Punjab and Haryana High Court in Kulwinder Singh v. State of Punjab was called upon to determine, inter alia, the question whether the High Court has the power under Section 482 of the Code to quash the criminal proceedings or allow the compounding of the offences in the cases which have been specified as non-compoundable offences under the provisions of Section 320 of the Code. The five-Judge Bench referred to quite a few decisions of this Court including the decisions in Madhu Limaye, Bhajan Lal, L. Muniswamy, Simrikhia, B.S. Joshi and Ram Lal and framed the following guidelines: (Kulwinder Singh case, CTC pp. 783-84, para 21)*
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> *"21. ... '(a) Cases arising from matrimonial discord, even if other offences are introduced for aggravation of the case.*
>
> *(b) Cases pertaining to property disputes between close relations, which are predominantly civil in nature and they have a genuine or belaboured dimension of criminal liability. Notwithstanding a touch of criminal liability, the settlement would bring lasting peace and harmony to larger number of people.*
>
> *(c) Cases of dispute between old partners or business concerns with dealings over a long period which are predominantly civil and are given or acquire a criminal dimension but the parties are essentially seeking a redressal of their financial or commercial claim.*
>
> *(d) Minor offences as under Section 279 1PC may be permitted to be compounded on the basis of legitimate settlement between the parties. Yet*

another offence which remains non-compoundable is Section 506(11) IPC, which is punishable with 7 years imprisonment. It is the judicial experience that an offence under Section 506 IPC in most cases is based on the oral declaration with different shades of intention. Another set of offences, which ought to be liberally compounded, are Sections 147 and 148 IPC, more particularly where other offences are compoundable. It may be added here that the State of Madhya Pradesh vide M.P. Act 17 of 1999 (Section 3) has made Sections 506(11) IPC, 147 IPC and 148 IPC compoundable offences by amending the schedule under Section 320 CrPC.

(e) The offences against human body other than murder and culpable homicide where the victim dies in the course of transaction would fall in the category where compounding may not be permitted. Heinous offences like highway robbery, dacoity or a case involving clear-cut allegations of rape should also fall in the prohibited category. Offences committed by public servants purporting to act in that capacity as also offences against public servant while the victims are acting in the discharge of their duty must remain non-compoundable. Offences against the State enshrined in Chapter VII (relating to army, navy and air force) must remain non-compoundable.

(f) That as a broad guideline the offences against human body other than murder and culpable homicide may be permitted to be compounded when the court is in the position to record a finding that the settlement between the parties is voluntary and fair.

While parting with this part, it appears necessary to add that the settlement or compromise must satisfy the conscience of the court. The settlement must be just and fair besides being free from the undue pressure, the court must examine the cases of weaker and vulnerable victims with necessary caution."

To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the court to exercise its power under Section 482 CrPC. The only principle that can be laid down is the one which has been incorporated in the section itself i.e. 'to prevent abuse of the process of any court' or 'to secure the ends of justice'."

"50. A three-Judge Bench of the Bombay High Court in Abasaheb Yadav Honmane v. State of Maharashtra dealt with the inherent power of the High Court under Section 482 of the Code vis-à-vis the express bar for compounding of the non-compoundable offences in Section 320 (9) of the Code. The High Court referred to various decisions of this Court and also the decisions of the various High Courts and then stated as follows: (Mah LJ pp. 904-05, para 14) "

> *"14. The power of compounding on one hand and quashing of criminal proceedings in exercise of inherent powers on the other, are incapable of being treated as synonymous or even interchangeable in law. The conditions precedent and satisfaction of criteria in each of these cases are distinct and different. May be, the only aspect where they have any commonality is the result of exercise of such power in favour of the accused, as acquittal is the end result in both these cases. Both these powers are to be exercised for valid grounds and with some element of objectivity. Particularly, the power of quashing the FIR or criminal proceedings by the court by taking recourse to inherent powers is expected to be used sparingly and that too without losing sight of impact of such order on the criminal justice delivery system. It may be obligatory upon the court to strike a balance between the nature of the offence and the need to pass an order in exercise of inherent powers, as the object of criminal law is protection of public by maintenance of law and order."*

"51. Section 320 of the Code articulates public policy with regard to the

compounding of offences. It catalogues the offences punishable under IPC which may be compounded by the parties without permission of the court and the composition of certain offences with the permission of the court. The offences punishable under the special statutes are not covered by Section 320. When an offence is compoundable under Section 320, abatement of such offence or an attempt to commit such offence or where the accused is liable under Section 34 or 149 IPC can also be compounded in the same manner. A person who is under prescribed." years of age or is an idiot or a lunatic is not competent to contract compounding of offence but the same can be done on his behalf with the permission of the court. If a person is otherwise competent to compound an offence is dead, his legal representatives may also compound the offence with the permission of the court. Where the accused has been committed for trial or he has been convicted and the appeal is pending, composition can only be done with the leave of the court to which he has been committed or with the leave of the appeal court, as the case may be. The Revisional Court is also competent to allow any person to compound any offence who is competent to compound. The consequence of the composition of an offence is acquittal of the accused. Sub-section (9) of Section 320 mandates that no offence shall be compounded except as provided by this section. Obviously, in view thereof the composition of an offence has to be in accord with Section 320 and in no other manner."

"*57. 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."

"58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the 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 wrongdoing that seriously endangers and threatens the well-being of the 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 the 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 the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the 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 the victim and the offender and the 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 FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the 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."

12. In a similar manner, the Hon'ble Supreme Court in the case of ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Ors., Vs. The State of Gujarat & Anr***., reported in ***2017 (9) SCC 641***, as well as in the case of ***Laxmi Narayan*** (supra), reiterated the principles laid down in the aforesaid cases of ***Gian Singh*** (supra) and ***Narinder Singh*** (supra). In the instant case, the dispute between the parties appears to be private in nature, which has been duly settled through a compromise between the parties. Since the petition has been filed jointly by the parties, the compromise appears to be voluntary.

13. It appears that, in view of the amicable settlement arrived at between the victim and the accused, no useful purpose would be served by allowing the prosecution to continue against the accused/petitioner. The dispute, though involving an element of public interest, appears to have predominantly arisen out of a private dispute between the parties. Nevertheless, having regard to the facts and circumstances of the present case, this Court is of the considered view that the continuation of the criminal proceedings would serve no fruitful purpose and would amount to an abuse of the process of the Court. Accordingly, this is a fit case for exercise of the inherent jurisdiction of this Court to secure the ends of justice.

14. Accordingly, in view of the foregoing discussions and having regard to the law laid down by the Hon'ble Apex Court, as discussed hereinabove, the impugned criminal proceedings in G.R. Case No. 15/2024, under Sections 354A(1)(iv)/354D(1)(ii), read with Section 67 of the Information Technology Act, 2000, pending before the Court of learned Chief Judicial Magistrate, Tezu, are hereby quashed.

15. The instant criminal petition stands allowed accordingly.

JUDGE

Pura Yabii, Private Secretary