GAHC040008592026 2026:GAU-AP:1196

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

Case No. : Crl.Petn./147/2026

Mrs Dr Tumbom Riba Jomoh and 4 Ors
Wife of Shri Rohit Jomoh, a permanent resident of Jullang Itanagar, PO RK Mission and PS Chimpu, Ppaum Pare District, Arunachal Pradesh.

2: Mrs Jomoh Boni
Age:
Occupation :
Wife of Shri Bini Talo
a permanent resident of Village Kalaptukar
Circle Dollungmukh
PO and PS Dollungmukh
Kamle District
Arunachal Pradesh and presently residing at Papunallah
PO Naharlagun
PS Papu Hill
Papum Pare District
Arunachal Pradesh.

3: Dake Tache @ Raju
Age:
Occupation :
Son of Late Dake Takia
a permanent resident of Village Dariabill
PO and PS Balijan
Papum Pare District
Arunachal Pradesh and presently residing at Ganga Village Itanagar
PO RK Mission
PS Chimpu
Papum Pare District
Arunachal Pradesh.

4: Nabam Tara
Age:
Occupation :

Son of Nabam Tara
a permanent resident of Village Bassarnallo
PO and PS Balijan
Papum Pare District
Arunachal Pradesh.

5: Smti Nabam Rima
Age:
Occupation :
Wife of Nabam Tara
a permanent resident of Village Bassarnallo
PO and PS Balijan
Papum Pare District
Arunachal Pradesh

VERSUS

The State of AP
represented by the PP of AP

Advocate for the petitioners : Mr. Nabam Raba

Advocate for the respondent : Mr. Chorpok Modi, Amicus Curiae
Mr. D Loyi, APP (AP)

BEFORE

HON'BLE MR. JUSTICE SANJEEV KUMAR SHARMA

Date on which judgment is reserved : 23.11.2026

Date of pronouncement of judgment : 26.11.2026

Whether the pronouncement is of the operative part of the judgment ? : N/A

Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER (CAV)

(Sanjeev Kumar Sharma, J)

Heard Mr. Nabam Rama, learned counsel for the petitioners. Also heard Mr. D. Loyi, learned Public Prosecutor for the State of Arunachal Pradesh.

2. This joint petition has been preferred under Section 528 of the BNSS, 2023, seeking quashing of the FIR dated 06.10.2017, registered as Itanagar WPS P.S. Case No. 95/2017, under Sections 365/34 IPC, corresponding to GR No. 615/17, and the subsequent criminal proceedings arising therefrom.

3. The brief facts of the case are that on 06.10.2017, a written complaint was received from Smti. Tumbom Riba Jomoh, W/o Rohit Jomoh, resident of Dera Natung College, Itanagar, stating that on 27.09.2017, at around 07:00 hrs., Miss Boni Jamoh, aged about 15 years, had gone missing from her residence. Accordingly, the case was registered. In the course of investigation, the missing girl was recovered from the house of one Nabam Tara at Basir Nallo, Jote, Itanagar, who is petitioner No. 4 herein. During examination, the missing girl stated that one day, while she was roaming at Ganga Market, two unknown persons approached her and asked her to accompany them, to which she agreed. Thereafter, the said two persons handed her over to petitioner No. 4 and his wife, petitioner No. 5.

4. The investigation further revealed that the missing girl had run away from the complainant's house and that, on the same day, she was found by accused Deke Tache @ Raju, who handed her over to his younger sister, Nabam Rina, instead of informing the police station. Since then, the missing girl had been staying at the house of petitioner Nos. 4 and 5. As per her Aadhaar card, the age of the girl at the time she went missing was 16 years, 9 months and 21 days.

5. The I.O. submitted the charge-sheet under Section 363 IPC.

6. According to the petitioners, the actual facts of the case are that petitioner No. 1 is a government employee and, at the relevant time, was working as an Assistant Professor at Dera Natung Government College, Itanagar. Accordingly, petitioner No. 1 was residing in a government quarter situated within the campus of Dera Natung Government College. Petitioner No. 2 was a minor at the relevant time, aged about 16 years, and was a resident of Hollongi. She is the sister-in-law of petitioner No. 1, as the husband of petitioner No. 1 and petitioner No. 2 belong to the same clan. Therefore, with the consent of the clan members and the parents of petitioner No. 2, she was allowed to stay with petitioner No. 1, as her parents were unable to bear the expenses of her education and medical treatment. Petitioner No. 2 was also suffering from

eyesight-related problems, as one of her eyes was blind and the other was partially blind. Petitioner No. 1, at her own expense, arranged for her treatment and surgery.

7. On 27.07.2017, in the early morning, at around 5:00 AM, petitioner No. 2 voluntarily came out of the house with the intention of going to her parents' place at Hollongi. However, she unfortunately lost her way and reached the Jullang-Ganga Market Road (highway), where she could not find the route to her home. In the meantime, petitioner No. 3, who was coming from Ganga Market, Itanagar, and proceeding towards Jullang to see his Mithun (Bos frontalis), suddenly encountered petitioner No. 2 standing near the roadside, with her clothes wet. Upon seeing the minor girl alone in such a condition at an early hour, petitioner No. 3 was surprised and emotionally moved. He stopped his motorcycle and enquired about her whereabouts and where she had come from. However, petitioner No. 2 failed to give a proper reply and was unable to disclose the name and address of petitioner No. 1. She was also unable to properly disclose her own address so that petitioner No. 3 could take her there. Consequently, petitioner No. 3 could not find any means or source to inform the guardian of petitioner No. 2. When petitioner No. 3 again asked her about the place where she was standing and whether she knew the location, petitioner No. 2 again stated that she did not know anything.

8. Considering the circumstances, petitioner No. 3 apprehended that petitioner No. 2 might face difficulties or fall into danger or become vulnerable to exploitation by anti-social elements. Therefore, in order to protect her safety and well-being, petitioner No. 3 asked her whether she wished to accompany him, to which she agreed. Petitioner No. 3, being uneducated and unaware of the legal implications, took petitioner No. 2 and handed her over to petitioner Nos. 4 and 5, who are his real brother-in-law and sister, respectively. At that point in time, petitioner No. 3 had no proper place of residence in Itanagar and was working for another person in a business establishment.

9. On the other hand, petitioner No. 1, after searching for petitioner No. 2 for a couple of days and finding that she had not returned home, eventually lodged a missing report at Itanagar Women Police Station, which was subsequently registered as the instant case.

10. It is further stated that after petitioner No. 3 handed over petitioner No. 2 to petitioner Nos. 4 and 5, the latter repeatedly enquired about her name and address. However, petitioner No. 2 failed to provide any information, as she had difficulty communicating with others and was not as articulate as other children. Therefore, when petitioner No. 2 failed to disclose her identity and address, petitioner Nos. 4 and 5 kept her with them and gave her a new name, as she

could not even disclose her own name. Consequently, petitioner Nos. 4 and 5 treated petitioner No. 2 as a member of their own family and took care of her by providing all her necessities. Petitioner No. 2 did not raise any objection and, with her consent, continued to live with petitioner Nos. 4 and 5 at their residence at Basir Nallo under Sangdupota Circle, where she became a part of their family.

11. It is submitted that the learned CJM, Yupia, took cognizance of the offence and issued summons. Accordingly, petitioner Nos. 3, 4 and 5 appeared before the Court on 04.07.2024. By that time, the next date of the case had already been fixed, and the case is presently at the stage of evidence, following the framing of charges under Sections 365/34 IPC against petitioner Nos. 3, 4 and 5. It is submitted that since the offences involved are non-compoundable, the learned Trial Court could not bring the proceedings to an end on the basis of the compromise, although the Court was apprised of the fact that the matter had been amicably settled between all the parties.

12. Learned counsel submits that a deed of agreement was executed between the parties/petitioners on 04.02.2026, recording the terms of the compromise, a copy of which is annexed to the present application.

13. It is further submitted by learned counsel for the petitioners that, in view

of the aforesaid settlement between the parties, the petitioners, including the victim (petitioner No. 2), have approached this Court by way of the instant petition seeking quashing of the criminal proceedings.

14. Learned counsel for the petitioners has referred to the decision of the Hon'ble Apex Court in ***Mafat Lal & Anr. Vs. State of Rajasthan, 2022 LiveLaw (SC) 362***, wherein the Hon'ble Apex Court quashed the criminal proceedings against the appellant, who was accused of abducting/kidnapping a girl, taking into consideration the fact that the girl had clearly stated that she had neither been taken away nor induced by the appellant and that she had left her home of her own free will. It was held that conducting the trial would not be conducive to the interests of either of the appellants and that it would be a futile exercise.

15. Learned Public Prosecutor fairly submits that, in view of the settlement arrived at between the parties, he has no objection to the prayer made by the petitioners being allowed.

16. The Hon'ble Apex Court, in ***State of Madhya Pradesh vs. Lakshmi Narayan & Ors., (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., (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 18 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."

17. 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)*, reitereated the principles laid down in the aforesaid cases of ***Gian Singh*** *(supra) and* ***Narinder Singh*** *(supra)*.

18. In the instant case, it appears that the victim, who was aged nearly 17 years at the relevant time, had accompanied petitioner No. 3 of her own free will, who thereafter handed her over to his sister. She subsequently stayed at the house of petitioner Nos. 4 and 5 for a considerable period and did not make any attempt to leave the household.

19. Under the said circumstances, and having regard to the settlement arrived at between the parties, it is evident that the victim is not desirous of pursuing the matter any further. It is also noticed from the affidavit filed by the victim herself that she is now aged 25 years and is already married to another person.

20. Under these circumstances, continuation of the criminal proceedings would not be conducive to the interests of the victim herself. It also appears that such continuation would be a futile exercise, serving no fruitful purpose.

21. Keeping the aforesaid factual matrix in consideration and in the light of the law laid down by the Hon'ble Apex Court, as discussed hereinabove, I am of the view that the ends of justice would be secured by quashing the impugned proceedings.

22. Accordingly, the proceedings arising out of Itanagar WPS P.S. Case No.

95/2017**,** registered under Sections 365/34 IPC, and GR No. 615/17, pending before the learned Chief Judicial Magistrate, Yupia, are hereby quashed.

23. The petition stands allowed accordingly.

JUDGE

Comparing Assistant