GAHC010185412023

2026:GAU-AS:15394

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

Case No. : Crl.Pet./881/2023

TILUTAMA PEGU AND ANR
W/O SRI GONDESWAR PEGU
R/O VILL- GALI RANGAJAN P.O. GALI BORBALI, PIN-787060
P.S. JONAI,
DIST. DHEMAJI, ASSAM

2: SRI GANDHESWAR PEGU @ GONDESWAR PEGU
S/O SRI KANTA PEGU
R/O VILL- GALI RANGAJAN
P.O. GALI BORBALI
P.S. JONAI

DIST. DHEMAJI
ASSAM
PIN-78706

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:SMTI. NABAJYOTI PEGU
W/O SRI ANUPAL PEGU
R/O VILL- GALI RANGAJAN
P.O. GALI BORBALI
P.S. JONAI
DIST. DHEMAJI
ASSAM
PIN-78706

Advocate for the Petitioner : MR G JALAN, MR. N BARDOLOI

Advocate for the Respondent : PP, ASSAM, I J SINGPHO (R-2),H P NEOG (R-2),MR. B K DAS (R-2)

BEFORE
HON'BLE MRS. JUSTICE SHAMIMA JAHAN
ORDER

12.10.2026

Heard Mr G Jalan, learned counsel for the petitioners and Mr R J Baruah, learned Additional Public Prosecutor for the State of Assam. Also heard Ms D Sarma, learned counsel appearing on behalf of Mr B K Das, learned counsel for the respondent No. 2.

2. By this application filed under Section 482 of the CrPC, 1973, the petitioner has prayed for quashing of the FIR lodged against the petitioners being registered as Jonai PS Case No. 210/2021, under Sections 448/376/294 as well as Section 506 of the IPC. The petitioner has also prayed for quashing of the charge dated 28.12.2021, submitted in pursuance of the said FIR, along with the proceedings initiated vide PRC Case No. 27/2022. The petitioner has further challenged the order dated 25.04.2022, by which the Court of SDJM (M), Jonai, had taken cognizance of offence against the petitioners.

3. The case of the petitioners is that an FIR was lodged by the informant, stating *inter alia,* that when her husband was not at home, the petitioner No. 2 had entered her house while she was sleeping and forcefully raped her. She also stated that when she tried to free herself from him, the petitioner No. 2, had threatened her with a sharp weapon *(khukuri).* It was also stated that the petitioner No. 1 the wife of petitioner No. 2, without any reason had abused her with filthy language. On receipt of the ejahar, the Police registered the case as Jonai PS Case No. 210/2021. Thereafter, on completion of the

investigation, the Police submitted the charge sheet vide Charge Sheet No. 97/2021, on 28.12.2021, charging the petitioner No. 1 under Sections 448/376/294 as well as Section 506 of the IPC, on finding sufficient evidence against him. The Police, thereafter, charged the petitioner No. 1 under Sections 448/294 as well as Section 506 of the IPC, on finding sufficient evidence against her too. Thereafter, the said charge sheet was submitted before the concerned Court and the Court by order dated 25.04.2022, had taken cognizance of offence under Sections 448/376/294 as well as Section 506 of the IPC, against both the petitioners.

4. The learned counsel for the petitioners submits that the petitioners are relatives of the informant and that the FIR was lodged on a misunderstanding. He further submits that the informant had sworn in an affidavit on 8th of August, 2023 stating, *inter alia,* that she had lodged the FIR due to anguish and quarrel which had taken place between her and petitioner No. 1 and to avenge, she lodged the ejahar against both the petitioners. She reiterated that to take revenge of her insult, she had impleaded petitioner No. 2 in the case and that the allegations are not true. She, thereafter, stated that she realized her mistake and with the interference of her neighbours, she settled the matter with petitioner No. 1 and she categorically states that petitioner No. 2 had not committed any such offence as reflected in the FIR.

5. The learned counsel appearing for the informant also concedes to the argument made by the learned counsel for the petitioners and further submits that the said affidavit

has been sworn in by the informant on his own volition and that she prays that the matter being settled between the parties be quashed.

6. Mr R J Baruah, learned Additional Public Prosecutor, on the other hand, submits that in the instant case, the offence of rape is established and the charge sheet has been laid for the said offence, and as such, he submits that since such heinous offences are mentioned and materials are found on that behalf, the instant case may not be quashed.

7. I have heard the learned counsels for the parties and I have gone through the records.

8. It is a settled position of law that cases which are of private in nature and which does not have an affect on the society at large, can be quashed by the High Court in exercise of its inherent jurisdiction. It has been held by the Supreme Court in ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur Vs. State of Gujarat;*** reported in **(2017) 9 SCC 641,** that only cases of heinous and serious offences involving mental depravity or offences such as murder, rape, dacoity, cannot appropriately be quashed, though the victim or the family of the victim had settled the dispute. It is also held by the Supreme Court that where there is remote possibility of conviction or there is no likelihood that the accused person will be convicted, and that the continuation of the criminal proceeding would cause oppression and prejudice, the same can be quashed. Although the Hon'ble Apex Court had held in cases of rape that the same cannot be quashed, but the related facts and circumstances should be seen. In the instant case, it is

seen that the informant, who is the victim herself, had stated in her affidavit sworn in on 8th of August, 2023, that she actually had a quarrel with the petitioner No. 1, i.e., the wife of petitioner No. 2 and that to take revenge for the insult caused to her, she impleaded her husband in the said offence of rape. She had categorically stated in the said affidavit that the allegation made against petitioner No. 2, is not true, and that she realizing her mistake, with the help of the neighbours, had come to a settlement with the petitioners. As such, it is seen that the allegation of rape against the petitioner No. 2, has been nullified by the victim herself in her affidavit, which leads to the conclusion that conviction of the accused person will be remote and continuance of the proceedings would cause oppression and prejudice, not only to the accused persons, but also to the informant. As such, this Court deems it fit to quash the proceedings against the petitioners. Accordingly, the FIR lodged against the petitioners being Jonai PS Case No. 210/2021, is quashed. Resultantly, the charge sheet being Charge Sheet No. 97 of 2021, submitted on 28.12.2021, also stands quashed. Further, the proceedings initiated vide PRC Case No. 27 of 2022, along with the subsequent orders passed therein are also quashed.

9. Petition is allowed and disposed of.

JUDGE

Comparing Assistant