

GAHC010044642024



undefined

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

Case No. : Crl.Pet./253/2024

BHUPEN CH DAS
S/O LATE KAILASH DAS, R/O VILL-DADRA, P.S.-HAJO, PIN-781104, DIST-
KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2.:JABLI DAS
W/O BHUPEN DAS
R/O VILL- KULHATI
NEAR DURGA MANDIR
P.O.-KULHATI
P.S.-HAJO
DIST- KAMRUP
PIN-781104
ASSA

Advocate for the Petitioner : MR P P MEDHI, MR G BARGAYARY

Advocate for the Respondent : PP, ASSAM, MR. S RANA (r-2)

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

04.12.2024

Heard Mr. G. Bargayary, the learned counsel appearing for the petitioner. Also heard Mr. D. Das, the learned Addl. Public Prosecutor, Assam. Heard Mr. S. Rana, the learned counsel appearing for the Respondent No.2.

2. This is an application under Section 482 of the CrPC, praying for quashing the criminal proceedings relating to Sessions Case No.139/2022 arising out of Hajo P.S. Case No.466/2020 pending in the court of the learned District & Sessions Judge, Kamrup, Amingaon.

3. The petitioner is the husband of the Respondent No.2. They were married on 22.01.2020. It is alleged in the FIR that the petitioner forced her to have unnatural sex with the Respondent No.2. He never listened to her objections. The petitioner also tried to videograph his sexual activities with the Respondent No.2 in his mobile phone. On those issues, they had quarrels and ultimately, the petitioner stopped talking to his wife. Thereafter, the petitioner allegedly demanded a cash amount of rupees fifty lakh as dowry. The informant has alleged that after his return from office, the petitioner used to spend time with his mother only. Finally, on 11.05.2020, at about midnight, the informant wife was beaten up by the present petitioner. On the day of lodging the FIR i.e. 15.05.2020 also she was physically assaulted by the complainant. Therefore, the Respondent No.2/wife left her matrimonial house.

4. After filing of the criminal petition before this Court, the Respondent No.2 had filed an affidavit stating that she has mutually settled her dispute with the petitioner.

She further stated that since they had settled their disputes, she wanted that the proceedings of Sessions Case No.139/2022 pending in the court of District & Sessions Judge, Kamrup, Amingaon deserves to be quashed.

5. I have considered the submissions made by the learned counsel of both sides.

6. The guidelines for consideration of a petition under Section 482 of the CrPC has been laid down by the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal*, AIR 1992 SC 604. Paragraph 102 of the judgment reads as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. Reverting to the case in hand, I find that this is a dispute between a young couple with a long future ahead of them. Since both sides have settled their disputes, this Court is of the opinion that they should be given a chance to go into a beautiful future life. Under the given circumstances of the case, this Court is of the opinion that there is no possibility of future conviction in this case. So, allowing the criminal proceeding to continue before the trial court would be nothing but an abuse of the process of the court.

8. This Court is of the opinion that this is a fit case for exercising power under Section 482 of the CrPC. The criminal petition is allowed.

9. Accordingly, the proceedings relating to Sessions Case No.139/2022 arising out of Hajo P.S. Case No.466/2020 pending in the court of the District & Sessions Judge, Kamrup, Amingaon, is quashed and set aside.

The criminal petition is disposed of.

JUDGE

Comparing Assistant