

GAHC010037082022



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

**Case No. : Crl.Pet./156/2022**

HRIDAY BORAH @ HIDAY BORAH  
S/O SHRI GHANA KANTA BORAH, VILL-KACHALUKHUWA, P.S.-NAGAON,  
DIST-NAGAON, ASSAM

VERSUS

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

2:BIREN MEDAK  
S/O LATE MOHESWAR MEDAK  
VILL-BHALUKAGURI  
DAMBUK  
P.S.-SILAPATHAR  
DIST-DHEMAJI  
ASSA

**Advocate for the Petitioner : MR. N UDDIN**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY**  
**ORDER**

**04.06.2024.**

Heard Mr. N Uddin, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State respondent as well as learned counsel for the respondent No. 2.

2. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973 praying for quashing of the criminal proceeding arising out of FIR dated 10.05.2019 in connection with Silapathar P.S. Case No. 175/2019 registered under Section 420/406 of IPC
3. This present petition is filed in a background that they had settled the matter amicably between them and therefore, this court in exercise of its power under Section 482 of Cr.P.C. should quash the criminal prosecution as the offences charged are not compoundable under Section 320 of Cr.P.C.
4. The facts of the case is that the informant lodged an FIR inter alia alleging that accused petitioner misappropriated the labour wages of the informant of Rs. 5,00,000/- out of Rs. 6,00,000/-. On completion of investigation, investigating officer filed a charge sheet against the accused petitioner under section 420/406 of IPC. The learned Chief Judicial Magistrate, Dhemaji vide order dated 17.06.2020 took cognizance against the petitioner, issued summon to the petitioner and case was fixed on 25.02.2022 for appearance.
5. In the aforesaid backdrop, this Court is now to decide whether this is a fit case where this Court can exercise its inherent power under Section 482 of Cr.P.C. to quash the FIR dated 10.05.2019 in connection with Silapathar P.S. Case No. 175/2019 registered under Section 420/406 of IPC.
6. It is by now settled that a High Court in exercise of its power under

Section 482 of Cr.P.C. can very well quash a criminal proceeding or a criminal complaint, but while doing so, the Court is to follow certain principles as enunciated by the Hon'ble Apex Court in ***Gian Singh –Vs- State of Punjab and Another*** reported in ***2012 10 SCC 303***, and in ***State of Madhya Pradesh –Vs- Laxmi Narayan and Others*** reported in ***2019 5 SCC 688***.

7. In the case of ***Laxmi Narayan***, (supra) the Hon'ble Supreme Court has laid down certain guidelines for exercise of powers under Section 482 Cr.P.C., it is submitted that instant case falls within the guidelines laid down by the Hon'ble Supreme Court.
8. For ready reference, paragraph-13 of ***Laxmi Narayan*** (Supra) is extracted herein below:

*“13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:*

- i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;*
- ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;*
- iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;*
- iv) offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would*

*lead to framing the charge under Section 307 IPC.*

*For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;*

*while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”.*

9. Considering the given facts of the present case, this Court is of the view that no fruitful purpose shall be served, if the prosecution is allowed to continue. The offence is overwhelmingly and predominantly of civil character, particularly arises out of commercial transactions. This Court is also of the view that the matter relates to disputes, which is private in nature and does not have a serious impact on society, in the given facts of the present case. Therefore, this is a fit case where the power under Section 482 Cr.P.C. can be exercised as held in **Laxmi Narayan** (Supra).
10. Accordingly, this petition is allowed by setting aside and quashing the FIR dated 10.05.2019 in connection with Silapather P.S. Case No. 175/2019 registered under Section 420/406 of IPC.

**JUDGE**

**Comparing Assistant**