

GAHC010063942024



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

Case No. : Crl.Pet./359/2024

BINET TOSSA AND 2 ORS
S/O SRI GOYARAM TOSSA, R/O VILL- PURUPBARI, P.O. AND P.S.-GOHPUR,
DIST-BISWANATH, ASSAM, PIN-784168

2: KRISHNA KT. KUTUM
S/O SRI PARESH KUTUM
R/O VILL- BORTAMULI
P.O.-PAKEN
P.S.-GOHPUR
DIST-BISWANATH
ASSAM
PIN-784168

3: PARESH KUTUM
S/O SRI DEMPO KUTUM
R/O VILL- BORTAMULI
P.O.-PAKEN
P.S.-GOHPUR
DIST-BISWANATH
ASSAM
PIN-78416

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. L GOGOI

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

21.05.2024

Heard Mr. L. Gogoi, learned counsel for the petitioners. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State respondent.

2. This is an application under Section 482 of the Code of Criminal Procedure, 1973, jointly filed by the informant and the accused persons, praying for quashing the Charge-Sheet No. 233/2020, under Sections 448/294/323/307/34 IPC, arising out of Gohpur P.S. Case No. 75/2020, as well as the subsequent criminal proceeding in PRC Case No. 119/2021, pending before Court of learned SDJM (M), Gohpur, Sonitpur.
3. It is submitted by Mr. L. Gogoi, learned counsel for the petitioners, that the petitioner No. 1 is the informant/victim and the petitioner Nos. 2 & 3 are the accused of this case. It is a fact that there was a dispute between the parties due to some monetary transaction. On the day of incident, except a simple altercation, no such incident had happened as alleged in the F.I.R. The entire incident had happened only due to misunderstanding between the parties and subsequently, they have amicably settled the matter and in pursuant to that, they have also entered into a deed of mutual agreement on 15.03.2024 and after the said mutual settlement, they are living peacefully without any grievances against each other. Further he submitted that they are all neighbors and also the business partners.
4. In support of his submissions, Mr. L. Gogoi, learned counsel for the petitioners, further relied on following decision of Apex Court:

- (i) **State of Haryana Vs. Bhajan Lal [FIR 1992 SC 604.**

(ii) **Gian Singh Vs. State of Punjab & Anr [(2012) 10 SCC 303.**

(iii) **Narinder Singh Vs. State of Punjab [(2014) 6 SCC 466.**

(iv) **State of Madhya Pradesh Vs. Laxmi Narayan & Ors. [(2019) 5 SCC 688].**

5. Accordingly, it is submitted by the learned counsel for the petitioners that it is a fit case wherein the power under Section 482 Cr.P.C. can be exercised for quashing the criminal case, along with Charge-Sheet, pending against the present accused/ petitioner Nos. 2 & 3. He further submitted that as the matter has already been compromised/settled between the parties, the chance of conviction is very remote and bleak even if the proceeding is allowed to be continued.

6. In this context, Mr. D. Das, learned Additional Public Prosecutor, has submitted that since both the parties have resolved their dispute amicably and they are no longer willing to proceed with the case, the State has no objection in the event of allowing the petition.

7. I have considered the submissions made by the learned counsels for both sides and also perused the materials available on record.

8. It is seen that there was a dispute between the parties due to some monetary transaction. The present F.I.R. has been lodged by the petitioner No. 1 against the petitioner Nos. 2 & 3. However, they have resolved their dispute amicably and also entered into one deed of mutual settlement on 15.03.2024 and they are now living peacefully without any grievances with each other.

9. In the case of **State of Madhya Pradesh vs. Laxmi Narayan**, reported in **2019 (5) SCC 688**, the Apex Court has held as under:

“15. 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:

15.1. 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;

15.2. 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;

15.3. 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;

15.4. 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;

15.5. 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.”

10. Here in this case, it is seen that the dispute between the petitioners has arisen out of some monetary transaction and they have resolved the entire dispute amongst themselves and they are now living peacefully without differences and therefore, even if the proceeding is allowed to be continued, the chance of conviction is also very remote and bleak.

11. In view of above, ends of justice would be meted out if the petition is allowed. Further, since the matter has already been settled between the parties, it is unlikely that the petitioner No. 1 will depose against the present petitioner Nos. 2 & 3 and in that event allowing the proceeding to continue before the learned Court below, it would be an abuse of the process of the Court.

12. Under the above facts and circumstances and also considering the law laid down by the Supreme Court in the case of **Laxmi Narayan (supra)**, this Court is of the view that this is a fit case where the extra-ordinary power under Section 482 of the Code of Criminal Procedure can be invoked to quash the criminal proceeding pending before the Court of learned SDJM (M), Gohpur, Sonitpur. Accordingly, the petition stands allowed. The F.I.R. of Gohpur P.S. Case No. 75/2020; Charge-Sheet No. 233/2020, under Sections 448/294/323/307/34 IPC; as well as the subsequent criminal proceeding in PRC Case No. 119/2021, pending before Court of learned SDJM (M), Gohpur, Sonitpur, stand set aside and quashed.

13. In terms of above, this criminal petition stands disposed of.

JUDGE

Comparing Assistant