



GAHC010264572022

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

Case No. : Crl.Pet./1324/2022

PROF. DIGANTA KUMAR DAS
S/O LATE AJIT KUMAR DAS
R/O HOUSE NO. 7, F.B. LANE, SATRIBARI, GUWAHATI, PIN-781001

VERSUS

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

2:DR. TILUTTOMA BARUAH
W/O DR. ANUPAM BARUAH
R/O HOUSE NO. 27
M.C. ROAD
UZANBAZAR
P.S. LATASIL
GUWAHATI
PIN-781001

Advocates for the petitioner : Mr P D Nair,
Advocate for the respondent : Mr D Das, Addl. P.P,
Mr R Baishya.

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI

Date of Order : 08.06.2023

ORDER

Heard Mr P D Nair, learned counsel for the petitioner and Mr D Das, learned Additional Public Prosecutor for the State of Assam. Also heard Mr R Baishya, learned counsel for the respondent No. 2.

Although the matter was fixed for admission hearing today, as agreed to by the learned counsel for the parties, the matter is taken up for final disposal.

2. The petitioner has filed an application under Section 482 CrPC, for quashing of the proceeding in connection with PRC Case No. 2175 of 2021 (arising out of All Women PS Case No. 50/2021), pending in the Court of learned JMFC, Kamrup (Metro) at Guwhaati.

3. The case of the petitioner is that the petitioner is an academician, presently serving as the Registrar of Cotton University. The opposite party No. 2 was an aspirant for promotion to the post of Professor in Anthropology in Cotton University under the Career Advancement Scheme (hereinafter, referred to as 'CAS', in short). However, she was not found eligible for the said promotion. Accordingly, she was not selected for the said promotion by the Executive Council of Cotton University.

4. On 24.02.2021, the opposite party No. 2 had met the petitioner in his office in the capacity as Registrar of Cotton University to enquire about the reasons for her not being selected for the CAS promotion to the post of Professor even on the verge of retirement. The petitioner stated that he did not have any role to play in the matter of her selection for the said promotion. She, then went to curse his children, due to which the petitioner requested her to keep quiet and to leave his office chamber.

5. The opposite party No. 2 got upset and approached the All Women Police Station,

Panbazar, Guwahati, by filing an FIR, alleging that the petitioner used abusive words towards her such as "shut up" and "get out" and also alleged that she was about to assault her physically. On the basis of the said FIR, a case was registered as aforesaid under Sections 294/506 IPC. Subsequently, after completion of investigation, charge sheet has also been submitted and assigned to the file of learned CJM, Kamrup (Metro), vide PRC Case No. 2175/2021.

6. Learned counsel for the petitioner has submitted that the matter has been amicably settled between the parties immediately after the incident. To that effect, the respondent No.2 also has sworn an affidavit by stating that she is not interested to proceed with the case. Though the offence under Section 294 IPC is not compoundable in nature, however, as the alleged offences are petty offence and the parties have settled the matter amicably and the dispute also appears to be private in nature, this Court has power to quash the proceeding though the offence alleged against the petitioner is not compoundable. In support of his submission, learned counsel for the petitioner has placed reliance on the following case laws:-

1. **AIR 1929 Lah 234; (*Jas Raj Jagga vs. Emperor*)**
2. **ILR (1932) 56 Bom 196; (*Emperor vs. Philip Rangel*)**
3. **AIR 1954 Cal 288; (*Fiona Shirkhande vs. State of Maharashtra*)**
4. **AIR 1966 SC 1773 (*Veeda Menezes vs. Yusuf Khan vs. Ors.*)**
5. **(1990) 2 GLR 217; (*Shri Heramba Sarma vs. Shri Ajoy Sankar Das*)**
6. **(2003) 4 SCC 675; (*B.S. Joshi & Ors. Vs. State of Haryana & Anr.*)**

7. (2008) 9 SCC 677; (*Nikhil Merchant –Vs- Central Bureau of Investigation & Another*)
8. (2011) 10 SCC 705; (*Shiji –Vs- Radhika*)
9. (2012) 10 SCC 303; (*Gian Singh –vs- State of Punjab*)
10. (2012) 12 SCC 401; (*Jayrajsinh Digvijaysinh Rana –Vs-State of Gujarat & Anr.*)
11. (2013) 14 SCC 44; (*Fiona Shirkhande –vs- State of Maharashtra & Anr.*)
12. (2014) 6 SCC 466; (*Narinder Singh –Vs- State of Punjab & Anr.*)
13. (2015) 7 SCC 423; (*Manik Taneja & Another vs. State of Karnataka & Anr.*)
14. (2018) 3 SCC 290; (*Anita Maria Dias –Vs- State of Maharashtra & Anr.*)
15. (2019) 5 SCC 688; (*State of Madhya Pradesh vs. Laxmi Narayan & Others*)
16. (2019) 14 SCC 207; (*Vikram Johar vs. State of Uttar Pradesh & Another*)
17. 2021 SCC Online SC 966; (*Ramawatar –Vs- State of Madhya Pradesh*)

7. On the other hand, learned counsel for the respondent No. 2 also has argued in the same tune by stating that the matter has been amicably settled between the parties and in support of the fact, the respondent No. 2 has filed an affidavit, wherein she clearly stated as both the petitioner and respondent No. 2 had worked together as colleagues in the same institution and have nothing personal bias against each other. As such, she is not interested



to further proceed with the case.

8. I have considered the submissions of learned counsel for both the parties and also the affidavit submitted by the respondent No. 2.

9. It also appears from the record that FIR was lodged by the respondent No. 2 and subsequently, the respondent No. 2 also filed a petition before the Officer-In-Charge, All Women Police Station, Panbazar, for withdrawal of All Women PS Case No. 50/2021, filed against the petitioner.

10. I have gone through the FIR lodged by the respondent No. 2, which reveals that the incident occurred on 24.02.2021 and on the same date, the FIR was lodged before the Officer-In-Charge, All Women Police Station, Panbazar, alleging that the respondent No. 2 went to the official chamber of the petitioner to enquire about some official thing. Suddenly, he became very violent and intimidated her badly and told her very abusive words such as "shut up" and "get out". He was so violent that he was about to assault her physically, but she came out from the room.

11. Section 294 IPC reads as under:-

"294. Obscene acts and songs.—Whoever, to the annoyance of others, (a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

12. Section 506 IPC reads as under:-

“506. Punishment for criminal intimidation.—Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.....”

13. On perusal of the aforesaid provisions as well as punishment, it reveals that both offences are not heinous offences and punishments are within 2 (two) years.

14. In the case of **Gian Singh (supra)**, the Hon'ble Supreme Court held as under:-

“53. 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.

54. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although 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 wrong doing that seriously endangers and threatens well-being of 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 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 [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity, the settlement between offender and 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 victim and the offender and 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 F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of 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.”

15. The Hon'ble Supreme Court, in the case of **Madhavrao Jiwajirao Scindia & Ors. – Vs- Sambhajirao Chandrojirao Angre**, reported in **(1988) 1 SCC 69**, held that while

exercising the inherent power of quashing under Section 482 CrPC, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice, to permit a prosecution to continue. Where in the opinion of the Court, the chances of ultimate conviction are bleak and therefore, no useful purpose is likely to be served, by allowing a criminal proceeding to continue, the Court may while taking into consideration of the special facts of the case, also quash the proceeding even though it may be at a preliminary stage.

16. In the case of **Nikhil Merchant (supra)**, the Hon'ble Supreme Court quashed the criminal proceeding on the ground of compromise between the parties.

17. In another case titled **Ramgopal & Other v. State of MP**; reported in Criminal Appeal Nos. 1489 and 1488 of 2012 (MANU/SC/0728/2021), the Hon'ble Supreme court has held that –

“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 had managed with the complainant to enter into a compromise.

The High Court, therefore, having regard to the nature of offence and the fact that parties have amicably settled their dispute and the victim has

willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers, under Section 482 CrPC, even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished does not tinker with or paralyze the very object of the administration of criminal justice system."

18. Therefore, from the judgments of the Hon'ble Apex Court, law is fairly settled now that this court under [Section 482](#) Cr.P.C. can quash the proceedings on the ground of compromise arrived at between both the parties.

19. The law is also well settled that if the dispute is private in nature and does not affect the public at large then even criminal proceedings for non-compoundable offences on the basis of compromise can be quashed by this Court while exercising the power under Section 482 Cr.P.C.

20. In the instant case, the offence under Section 294 IPC is non-compoundable in nature and the dispute between the parties appear to be private in nature, which arises out of misunderstanding between the parties and both the parties have subsequently settled their dispute.

21. As it appears from the record that both the parties have settled the matter in dispute and the dispute arose between the parties, where the wrong is basically private or personal in nature and the parties have resolved their entire dispute amicably. Moreover, the offences involved are not serious in nature. Even if the proceeding is allowed to continue, ultimately,



the case will be ended in acquittal. So, the criminal case should not be allowed to proceed to create hurdle in their peaceful living.

22. In the result, petition is allowed. Accordingly, the proceeding in connection with PRC Case No. 2175 of 2021 (arising out of All Women PS Case No. 50/2021), pending in the Court of learned JMFC, Kamrup (Metro) at Guwahati is set aside.

23. With the above observation, this Criminal Petition is disposed of.

JUDGE

Comparing Assistant