

Serial No. 02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Petn. No.34 of 2021

Date of Decision: 01.10.2021

Shri Dapyooki Dkhar & Anr

Vs.

State of Meghalaya & Anr.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. A.S.Siddique, Adv.

For the Respondent(s) : Mr H. Kharmih. GA.

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| i) | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |

1. The Petitioner No 1 is a police constable serving in the Meghalaya Police and presently posted at SF-10 Unit Headquarter, Shillong.

2. The Petitioner No 2 is the Complainant who has lodged an FIR on 20.06.2020 at the Sadar Police Station, Shillong which was registered as Sadar P.S. Case No 142(6) OF 2020 under sections 279/337/338/304(A) IPC bringing to the notice of the police the fact about the occurrence of a motor accident which took place on 17.06.2020 near Delhi Mistan Bhandar, Police Bazaar, Shillong in which his father was dashed by the Scooty of the Petitioner No 1 and on being referred to NEIGHRIMS he succumbed to his injuries on 20.06.2020.

3. That the Petitioner No 1 and the Petitioner No 2 have decided to settle the matter outside court and consequently, an Agreement was drawn up between the parties, one of the terms being that the Petitioner No 1 would compensate the Petitioner No 2 for the loss of life of his deceased father which was agreed at ₹ 4,00,000/- (Rupees four lakhs) and that the Petitioner

No 2 would withdraw the said FIR filed and would not pursue the matter in court.

4. However, in the meantime, the Investigating Officer had filed the Charge Sheet on 06.11.2020 before the Court of the Chief Judicial Magistrate, Shillong which matter was then registered as G.R. Case No 92(S) of 2020 and the same was endorsed to the Magistrate for trial. The Petitioner No. 1 then entered appearance before the court and was supplied with the copy of the charge sheet. However, the charge is yet to be framed against him in the said case.

5. It is further stated in the petition that since the case involving the Petitioner No 1 also includes sections 279 and 304(A) IPC which are non-compoundable, the Magistrate under section 320 Cr.P.C. has no jurisdiction to allow the compromise between the parties. Hence this instant petition.

6. Mr A.S. Siddique learned Counsel for the Petitioners has submitted that since the Petitioners have already compromised therefore there is no futility in proceeding with the criminal case and as such, this is a fit case for this Court to exercise its inherent power under section 482 Cr.P.C. to quash the same. To support his argument, the case of "*Avinash Chawla v. State & ANR*" in CRL. M.C. No. 4942/2015 passed by the High Court of Delhi, and the case of "*Narinder Singh v. State of Punjab*" (2014) 6 SCC 466, at para 29, was cited.

7. Mr. H. Kharmih, learned GA on the other hand has submitted that since some of the sections involved in the said criminal case against the Petitioner No 1 are non-compoundable, therefore no compromise can be affected and as such, this application is liable to be rejected.

8. On appreciation of the submission made by the learned Counsels for the parties, the factual matrix being enumerated above, it appears that as far as the factum of the motor vehicle accident is concerned, there is no dispute that the parties have sorted the matter between themselves and the fact that the Petitioner No 1 has duly compensated the Petitioner No 2 for which the

Petitioner No 2 is satisfied is also evident.

9. However, that the cause of the said motor vehicle accident has to be determined in the said criminal case proceeded against the Petitioner No 1, some of the offences charged against him being non-bailable and non-compoundable, the question arise as to whether this Court in exercise of its inherent powers under section 482 Cr.P.C. can quash the said proceedings in the light of the compromise made between the parties.

10. Section 482 Cr.PC contemplate the situation where inherent power is vested in the High Court in respect of the following: -

- (i) To give effect to any order under the Cr.PC;
- (ii) To prevent abuse of the process of any court; and
- (iii) To secure the ends of justice.

11. In the context of the case in hand when the question of settlement between the parties is to be examined as to whether the same can have a bearing on the proceedings of the criminal case against one of the parties to the settlement, it would be appropriate to look into the relevant authorities in this regard particularly decisions by the Supreme Court.

12. In the case of ***“Narinder Singh v. State of Punjab”*** (2014) 6 SCC 466, at para 29, the Hon’ble Supreme Court has laid down certain principles which are a guidance for the High Court to deal with matters while exercising powers u/s 482 Cr.PC. In the said paragraph, the Supreme Court has held that the High Court u/s 482 of the Code has the inherent power to quash criminal proceedings even in cases which are not compoundable where the parties have settled the matter between themselves. However, this power has to be exercise to secure ends of justice or to prevent the abuse of the process of any court.

13. In the case of ***“Ramgopal & Anr v. The State of Madhya Pradesh”*** in Criminal Appeal No 1489 of 2012 in an order dated 29.09.2021, the Hon’ble Supreme Court while considering the issue as to whether non-

compoundable offences can be compounded by a Court or in the alternative, whether the High Court in exercise of its inherent powers under section 482 Cr. P.C. could quash non-compoundable offences, based on a compromise/settlement arrived at between the accused and the victim-complainant, and if so, under what circumstances, has referred to relevant authorities viz, the case of “*State of Madhya Pradesh v. Laxmi Narayan & Ors*”(2019) 5 SCC, 688 where at para 5 of the same it is held as under:

“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 antecedent 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”

14. In the same case i.e (Ramgopal) at paragraph 12, the Hon’ble Supreme Court has observed as under: -

“ 12. The High Court, therefore, having regard to the nature of the 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 Cr.P.C., 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.”

15. The case of “Avinash Chawla” (Supra) relied upon by the learned counsel for the Petitioner has been duly covered by the above authorities cited which deals with similar proposition of law.

16. It is generally the case in a motor vehicle accident that seeking

payment of compensation would satisfy the offending party (victim) and once satisfied, they are not interested in continuing with prosecution in the criminal proceeding. The agreement and settlement between the parties as regard the compensation for the death of the victim who is the father of the Petitioner No. 2 has settled the matter as far as Petitioner No. 2 is concerned and as such, it could be assumed that the Petitioner No. 1 has paid the penalty for his action akin to the principle of plea bargaining.

17. The factual situation involving the Petitioners herein would indicate that the antecedent of the accused/Petitioner No.1 and his conduct, particularly the fact that he had paid ₹ 4,00,000/- (rupees four lakhs) as compensation to the family of the victim is proof enough that the settlement between the parties is made bonafide.

18. This being the case, on the strength of the authorities cited, this Court is of the considered opinion that the application of the Petitioners is entitled to be allowed.

19. In view of the above, the dispute between the parties having been resolved, it would be futile to proceed with the said criminal proceeding against the Petitioner No. 1.

20. Accordingly, the proceedings of G.R. Case No. 92(s) of 2020 pending in the court of the learned Judicial Magistrate First Class, Shillong Smti D.M.K. Shadap is hereby quashed and bail bond executed if any stands discharged against the accused therein.

21. Matter is hereby disposed. No cost.

Judge

Meghalaya

01.10.2021

"N. Swer, Stenographer"