

THE HIGH COURT OF MEGHALAYA AT SHILLONG.

CRL.PETN. No. 13 of 2014

1. **Smti Paromita Saha,**
W/o Nizol Roy,
R/o Akhonggre, P.S. Tura,
West Garo Hills District, Meghalaya
 2. **Shri Nizol Roy,**
S/o Shri Nitai Roy,
R/o Akhonggre, P.S. Tura,
West Garo Hills District, Meghalaya
 3. **Shri Nitai Roy,**
S/o (L) Nagendra Chandra Roy,
R/o Akhonggre, P.S. Tura,
West Garo Hills District, Meghalaya
 4. **Shri Nirmal Chandra Roy,**
S/o Shri Nitai Roy,
R/o Akhonggre, P.S. Tura,
West Garo Hills District, Meghalaya
 5. **Shri Asha Rani Roy,**
W/o Shri Nitai Roy,
R/o Akhonggre, P.S. Tura,
West Garo Hills District, Meghalaya
- : Petitioners

-Vrs-

The State of Meghalaya,
Represented by the Commissioner
And Secretary, Home Department,
Shillong, East Khasi Hills District,
Meghalaya

: Respondent

**BEFORE
THE HON'BLE MR JUSTICE SR SEN**

For the Petitioner : Ms. S.G. Momin, Advocate

For the Respondent : Mr. J.M. Thangkhiew, Advocate

Date of hearing : **25.08.2014**

Date of Judgment & Order : **25.08.2014**

JUDGMENT AND ORDER (ORAL)

This instant petition is filed U/S 482 Cr.P.C praying for quashing the proceeding of Tura P.S. Case No. 19(5) of 2014, U/S 498(A) /506/326 IPC as well as G.R. Case No. 142 of 2014 pending before the learned Judicial Magistrate, Tura.

2. The brief fact of the case is that:

“The instant petition under Section 482 of Cr.P.C, is being preferred by the Petitioners, whereas the Petitioner No. 1 is the wife of the Petitioner No. 2 & the Petitioner No. 3 is the father in-law of Petitioner No. 1. That the Petitioner No. 1 due to some altercations between her husband (Petitioner No. 2) filed an FIR against the other petitioners and the same was registered as Tura P.S Case No. 19(5) of 2014, U/s 498(A)/506/323 I.P.C and subsequently it was charge-sheeted as GR No. 140/14.

That, however, with the intervention of the family members and friends of the Petitioners the differences between the Petitioners was resolved and subsequently the Petitioner No. 1 & 2 filed a Petition before the court of the Learned Judicial Magistrate, Tura, vide Petition dated: 26.05.2014 for withdrawal / compounding of the case, however the Learned Court of the Judicial Magistrate was pleased to reject the said Petition vide order dated: 26.05.2014. Being aggrieved by the said order passed by the Learned Court of the Judicial Magistrate, Tura the Petitioners herein had preferred this instant Criminal Petition before this Hon'ble Court. Hence, this petition”.

3. The Lower Court case record was called for and accordingly, it is produced today before me. I have perused the withdrawal petition dated 15.05.2014 filed by the complainant wherein, it appears that the complainant does not want to continue with the case and they have decided amicably to settle peacefully. I have also perused the statement given before the learned Judicial Magistrate, Tura wherein, the complainant clearly stated that **“I do not want to proceed with the case since my health condition is not good and I cannot come to the court also since I have to go my duty everyday”** and also further stated that **“For that sympathy I accept the Apology and I want to withdraw the FIR but in future if my husband and his family members continue to repeat the same thing then I will file a divorce”**.

4. Both the complainant and the accused are present before this court. I have personally enquired from them whether this withdrawal petition has been filed out of free will. The complainant stated that she has filed a petition out of her free will and not under any duress.

5. The learned counsel, Ms. S.G. Momin present in the court submits that this instant petition has been filed before this High Court as the learned Judicial Magistrate has no power to compound the offence.

6. The learned State counsel, Mr. J.M. Thangkhiew is also present.

7. After going through the Lower Court case record, the compromise petition, the statement of the complainant before the lower court as well as the assurance given by both the parties (husband and wife) that they will live peacefully and will not make any quarrel or repeat the same thing in the near future. Since it is purely a family matter and subject between the husband and the wife, I am of the opinion that the court should not encourage the parties to drag their case further which may lead to break up of the family.

8. For the foregoing reasons discussed above, I do not see any reason why the proceeding under Tura P.S. Case No. 19(5) of 2014, U/S 498(A) /506/326 IPC as well as G.R. Case No. 142 of 2014 pending before the learned Judicial Magistrate, Tura should not be quashed. Accordingly, taking recourse U/S 482 Cr.P.C, the Tura P.S. Case No. 19(5) of 2014, U/S 498(A) /506/326 IPC as well as G.R. Case No. 142 of 2014 are hereby quashed.

9. The matter stands disposed of with a condition that the accused person is not to torture his wife in the near future and the complainant also to co-operate and to respect her husband.

10. Court Master is directed to return the Lower Court case record along with a copy of this order.

11. With this observation and direction, the matter stands disposed of.

JUDGE

D. Nary