



IN THE HIGH COURT OF SIKKIM : GANGTOK
(Criminal Jurisdiction)

Crl. M.C. No. 09 of 2019

1. Shri Yogesh Rai,
Aged about 39 years,
Son of Shri Nakul Deo Rai,
R/o: Ramaram, Bikmat Village,
Namthang Rateypani,
P.O. Maniram Bhanjyang,
P.S. Namchi Police Station,
South Sikkim.
2. Shri Chandra Kumar Lohar,
Aged about 54 years,
Son of Lt. Chatur Bir Lohar,
R/o: Khayer Botey, Bikmat Village,
Namthang Rateypani,
P.O. Rateypani,
P.S. Namchi Police Station,
South Sikkim.
3. Shri Saran Lohar,
Aged about 26 years,
Son of Shri Chandra Kumar Lohar,
R/o: Khayer Botey, Bikmat Village,
Namthang Rateypani,
P.O. Rateypani,
P.S. Namchi Police Station,
South Sikkim.

... Petitioners

Versus

State of Sikkim

... Respondent

For the Petitioners : Mr. J.B. Pradhan, Sr. Advocate with Mr. D.K. Siwakoti, Advocate.

For the Respondent : Mr. S.K. Chettri, Assistant Public Prosecutor.

Date: 14.12.2019

BEFORE
HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI, CJ.

ORDER

Heard Mr. J.B. Pradhan, learned Senior Counsel assisted by Mr. D.K Siwakoti for the petitioner. Also heard Mr. S.K Chettri, learned Assistant Public Prosecutor for the respondent.



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2. By this petition under Section 482 of the Code of Criminal Procedure, 1973, for short, 'the Cr. P.C.', the petitioners pray for quashing of criminal proceedings in G.R. Case No.25 of 2019 under Section 324 IPC pending in the Court of learned Judicial Magistrate, Jorethang Sub-Division, South Sikkim, Jorethang.

3. The petitioner no.2, who is the father of petitioner no.3, had filed an FIR on 18.11.2018 before the Station House Officer, Melli Police Station, stating that on that date at around 04.30 p.m when his son, i.e. petitioner no.3, was in his vehicle at a place called Rok Dara, he was attacked by petitioner no.1 with a 'khukuri' causing cut injury on his left back shoulder and right hand. On the basis of the said FIR, Melli Police Station Case No. 37(11)2018 under Section 326 IPC was registered against petitioner no.1.

4. Corresponding to the said Melli Police Station Case No. 37(11)2018, G.R. Case No. 25 of 2019 was registered in the Court of Judicial Magistrate, Jorethang Sub-Division, South Sikkim, Jorethang. After completion of investigation, charge-sheet under Section 324 IPC was filed on 22.02.2019. Subsequently, charge under Section 324 IPC was framed against petitioner no.1. Till date, no witnesses have been examined on behalf of the prosecution. It is, at this stage, the present petition is filed before this Court.

5. Drawing attention of the Court to a "Milapatra" dated 10.12.2018, Mr. Pradhan submits that the parties, who are co-villagers, had amicably settled their dispute and when the injury suffered by petitioner no.3 was simple in nature, it will not be in the furtherance of justice to continue with the proceedings. He has also drawn the attention of the Court to a Deed of Compromise dated 15.11.2019.

6. Mr. Chettri, learned Assistant Public Prosecutor submits that in view of the compromise arrived at in between the parties, no fruitful purpose will be



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served in continuing with the case and ends of justice demand that the proceedings in G.R. Case No. 25 of 2019 be closed.

7. I have considered the submissions of the learned counsel appearing for the parties and have perused the materials on record.

8. A perusal of the "Milapatra" goes to show that signatories of the said Milapatra are the petitioner no.2, petitioner no.3 and the wife of petitioner no.3. By the said Milapatra, signatories declared that they had no complaint or grievance against petitioner no.1 and that the case against him should be closed. The Deed of Compromise dated 15.11.2019 was entered into by the present petitioners herein. It appears from the said Deed of Compromise that petitioner no.1 had expressed his regret for the incident and petitioner no.2 and 3 had also decided to close the matter once for all as they are co-villagers and have family relations.

9. This Court wanted to peruse the injury report which was not enclosed with the petition and subsequently, the petitioners have brought the same on record by filing I.A. No. 01 of 2019. A perusal of the said injury report goes to show that the doctor had opined on the basis of external examination that the nature of injury is simple.

10. In ***Gian Singh vs. State of Punjab and another***, reported in **(2012) 10 SCC 303**, which is referred to by Mr. Pradhan, the Hon'ble Supreme Court had laid down that it will be permissible for the High Court to quash a criminal proceeding although the offences are not compoundable, if the High Court is of the opinion that continuation of the criminal proceeding 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, thereby, securing the ends of justice. Hon'ble Supreme Court, however, sounded a note of caution that before exercise of such power, the High Court must



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have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc., as also offences under special statutes like the Prevention of Corruption Act, 1988 or the offences committed by public servants while working in that capacity cannot be quashed even if the parties have entered into any settlement.

11. Having regard to the facts and circumstances of the case, I am of the considered opinion that the allegations being not heinous and serious and as the parties have amicably settled their differences it would be unfair and contrary to the interest of justice to continue with the criminal proceedings.

12. Taking that view, criminal proceedings in G.R. Case No. 25 of 2019, presently pending in the Court of Judicial Magistrate, Jorethang Sub-Division, South Sikkim, Jorethang is quashed.

13. Crl. M.C. No. 09 of 2019 is, accordingly, disposed of. IA No. 01 of 2019 also stands disposed of.

Chief Justice

Approved for reporting : Yes / No

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