

Serial No. 01
Supplementary
List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Petn. No. 10 of 2020

Date of Decision: 16.12.2020

Shri Edwin Nongkynrih

Vs.

State of Meghalaya & Anr.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. K. Ch. Gautam, Adv.

For the Respondent(s) : Ms. S. Bhattacharjee, GA. for R. 1.

Mr. P.A. Dohkrut, Adv. for R. 2.

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

1. The Petitioner has approached this Court with an application under Section 482 Cr. PC with a prayer to quash the criminal proceedings in Lumdiengjri P.S Case No. 62 (6) 2020 under Section 8 of the POCSO Act.

2. Briefly stated, on 13.06.2020 at about 9.30 A.M, an incident of alleged molestation occurred at the Farmer's market Upper Shillong, where the victim has alleged that when she was alone at the stall of the accused carrying tea, the Petitioner touched her private parts, in reaction to which she slapped him and then went back to her room. On the same day, the FIR was filed before the Officer-In-charge which was registered as Lumdiengjri P.S Case No. 62 (6) 2020.

3. In course of investigation, the Petitioner and the alleged victim got together and along with the family members and elders of the village, have

come to an understanding and realization that the incident occurred not because of any malafide intention on the part of the Petitioner who is an old man of about 80 years old, but because of the circumstances surrounding the said occurrence.

4. Thereafter, the parties have come to an understanding and accordingly, a Compromise letter dated 14.06.2020 (Annexure-II of the petition) was made between the parties wherein, the alleged victim and the Petitioner herein have decided to settle their differences and to settle the matter amicably. This was reduced in writing and the same is being reproduced herein below:

“To whom it may concern

Compromise letter in connection with Lumdiengjri PS Case No. 62/6/2020 U/S 8 POCSO Act.

This agreement of compromise made at Shillong on this day of 14/06/2020 between Miss Dairisa Kharrymba Complainant, Smti Wantina Kharrymba (Mother of complainant) and Rangshailang Kharrymba (older brother of the complainant) resident of 4 ½ Mile Upper Shillong and Shri. Edwin Nongkynrih of Laitlyngkot Village. Whereas we realized that the incident occurred as a result of accidental. Therefore, the dispute and differences here arisen to settle the case amiably and don't want to proceed.

- | | |
|---|------------------|
| Sd/- | Sd/- |
| 1. Ms. Dairisa Kharrymba
Complainant. | Edwin Nongkynrih |
| Sd/- | |
| 2. Smti Wantina Kharrymba
(Mother) | |
| Sd/- | |
| 3. Shri Rangshailang Kharrymba
(elder brother) | |

Witness:

- | |
|------------------------------|
| Sd/- |
| 1. Elastina Kharbuki |
| Sd/- |
| 2. Shri Lasterson Myllemngap |
| Sd/- |
| 3. Shri Wilford Myllem |
| Sd/- |
| 4. Shri Pynsuk Manik Syiem.” |

5. Mr. K.Ch. Gautam, learned counsel for the Petitioner has submitted that from the facts and circumstances of the case, the alleged incident was purely

accidental involving a senior citizen who, at the age of 80 years is not expected to exhibit any untoward behavior towards anybody much less the alleged victim.

6. It is also submitted that inspite of the compromise between the parties, if the criminal proceeding continues, it would only be a source of harassment to the Petitioner since it is evidently clear that the case would only result in acquittal.

7. The learned counsel has also cited the case of ***Narinder Singh & Ors v. State of Punjab and Anr: (2014) 6 SCC 466***, paragraph 29, wherein the Hon'ble Supreme Court has laid down certain principles and guidelines, which should be observed while quashing of FIR pertaining to non-compoundable offences. It is further submitted that this Court in the case of ***Saindur Mame Kshiar v. State of Meghalaya: Crl. Petn. No. 28 of 2019*** was pleased to quash the FIR relying on the case of ***Narinder Singh (supra)***.

8. Another case cited by the Petitioner is the case of ***Shankar Swami Harijan & Ors v. State of Maharashtra and Anr: (2018) SCC Online Bom 14004*** wherein, in a proceeding by the Special Judge (POCSO), the parties therein have settled their differences amicably by way of mutual settlement, the Court relying in the case of ***Madan Mohan Abbot v. State of Punjab: (2008) 4 SCC 582*** and also in the case of ***Narinder Singh (supra)*** have quashed the criminal proceedings incidental to the case between the parties. Yet another case cited in this regard is the case of ***Mitesh Ashokbhai Chunavala v. State of Gujarat***, wherein the Hon'ble Gujarat High Court in R/Criminal Misc. Application No. 11267 of 2020 all the parties have come to an amicable settlement, the relevant FIR under Sections 4, 5(1) & 6(1) of POCSO Act, 2012 was quashed and set aside.

9. It is therefore prayed that this Court may be pleased to allow this petition and to pass necessary orders by quashing the FIR dated 13.06.2020 and subsequent criminal proceedings in Lumdiengjri P.S Case No. 62(6) 2020 under Section 8 of the POCSO Act.

10. Also heard Ms. S. Bhattacharjee, learned GA submitting on behalf of the State Respondent No. 1 who has pointed out from the records that the medical examination of the victim has shown no injuries, her statement under Section 164 Cr. PC was also pointed out to show that she has categorically stated that perhaps the incident occurred as accidental. The learned GA has further submitted that there is nothing in the case to prosecute the Petitioner and as such, the application is not opposed by the State Respondent. The case of *Gian Singh v. State of Punjab & Anr: (2012) 10 SCC 303*, paragraph 8 was also cited by the learned GA in this regard.

11. Mr. P.A. Dohkrut, learned counsel for Respondent No. 2 (victim), has submitted that at the time of the incident, there was confusion and pressure from the people present at the place of occurrence, which has compelled the victim to lodge the FIR, however, on hindsight, the Respondent No. 2 realised that the incident was an accident with no ill-intention by the Petitioner herein and as such, the Respondent No.2 even at that point of time was willing to withdraw the said FIR, but for the offence involved therein.

12. The Respondent No. 2 therefore has no objection to the prayer of the Petitioner in this instant petition.

13. I have considered the petition in hand and have also given due deference to the submission made by the learned counsels for the parties. Facts as stated may not be reproduced again. The only consideration for this Court is whether the proceedings before the Court against the Petitioner herein can prevail in the light of what has transpired between the parties.

14. Viewed logically, the main protagonist being the alleged victim having given away her right of grievance against the action of the Petitioner/accused, no amount of prosecution can result in the conviction of the accused and as such, the proceedings in the trial will only be a formality and unnecessary burden on the Court.

15. In the case of *Narinder Singh (supra)* at paragraph 29.5, the Hon'ble

Supreme Court has held that:

“29.5. while exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case.”

16. In the case of **Madan Mohan Abbot (supra)**, the Hon’ble Supreme Court at paragraph 6 has held as follows:

“6. We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.”

17. The above authorities would convince this Court that the Petitioner has got a good case and adequate ground for quashing of the Criminal proceedings against him in Lumdiengjri P.S Case No. 62(6) 2020.

18. In view of the above, the application of the Petitioner is hereby allowed. The proceedings in Lumdiengjri P.S Case No. 62(6) 2020 is hereby set aside and quashed.

19. Registry is directed to furnish copy of this order upon the concerned authority for necessary steps.

20. Return the case diary accordingly.

21. Petition disposed of. No cost.

Judge

Meghalaya
16.12.2020
“N. Swer, Stenographer”