

Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn. No. 70 of 2021

Date of Decision: 17.12.2021

Shri Histopharly Khylllem Kharai Vs. State of Meghalaya & 2 Ors.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)	:	Mr. P. Yobin, Adv.
For the Respondent(s)	:	Mr. S. Sengupta, Addl. Sr. GA.
		For R 1 & 2.
		Mr. M. Ratan, Adv. for R 3.

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

JUDGMENT AND ORDER

1. According to the version of the petitioner herein, an incident occurred on 16.04.2017 at about 5:00 PM where he witnessed an altercation between the father of respondent No. 3 and one local village boy who was in an inebriated condition. On seeing the fight between the two whom he knew personally, he tried to pacify them, but the situation was such that it very heated that he had to physically involve himself in trying to separate them. In the melee, without any ill intention, he pushed the respondent No. 3 who got offended and hurled verbal abuses at the petitioner who also replied in like

manner.

2. The respondent No. 3 then made a complaint to the police and filed an FIR making allegations against the petitioner, which prompted the police to register a police case being Mawkyrwat P.S. Case No 6 (04) of 2017 under Sections 354/506 IPC and investigation was carried out accordingly. The petitioner was also arrested in connection with the said police case and in due course was let off on bail on 09.05.2017.

3. After investigation was completed, the I/O filed the Final Form under Section 173 Cr.P.C. and charge sheet No. 15/2017 dated 31.08.2017 was placed before the Court. Taking cognizance of the said charge sheet, a case being G.R. Case No 17/2017 was registered and trial commenced before the Court of the learned Judicial Magistrate First Class at Mawkyrwat.

4. In the meantime, it is said that the petitioner and the respondent No. 3 have reconciled their differences and have realized that the whole episode was blown out of proportion on a mistaken notion driven by emotion and anger as such, better sense prevailed and the result thereof is that the respondent No. 3 no longer wishes to pursue the case against the petitioner. Accordingly, they have approached the learned Judicial Magistrate First Class and requested that the proceedings be closed as there is no purpose to continue with the same under the circumstances. However, the Court declined to allow the prayer made on the ground that the charges involved are non-compoundable as per the provision of Section 320 Cr.P.C.

5. Finding no option, the petitioner have now approached this Court with

an application under Section 482 Cr.P.C. craving indulgence of this Court for exercise of its inherent powers to quash the proceedings of the said G.R. Case No 17/2017.

6. Mr. P. Yobin, learned counsel for the petitioner has submitted that after the said incident, frayed tempers having cooled down, the petitioner having tendered his unconditional apology to the respondent No. 3, who in turn has also acknowledged that the decision to lodge the FIR was done in the heat of the moment, therefore the parties after amicably settling the matter amongst themselves, a compromise deed was accordingly drawn up in this respect.

7. Annexure A-5 to this petition is the copy of the Compromise Deed dated 25.02.2021 wherein it was found that the petitioner and the respondent No. 3 have reached a compromise in the matter with the respondent no longer willing to pursue the case and wishes to withdraw the FIR.

8. Mr. Yobin has further submitted that in the light of the compromise between the parties, this Court may be pleased to allow this petition and to pass necessary orders.

9. Mr. S. Sengupta, learned Addl. Sr. GA on behalf of the respondents No. 1 & 2 has submitted that the State has no objection to the prayer made in this petition as the matter is primarily between the petitioner and the respondent No. 3.

10. Mr. M. Ratan learned counsel for the respondent No. 3 has concurred with the submission of the learned counsel for the petitioner, inasmuch as, the facts and circumstances stated has not been contradicted and the fact that the

parties have reached a compromise between them is also not disputed. In fact, the respondent No. 3 has also filed an affidavit before this Court, to the extent that the compromise has been affirmed and that the same have been executed with consent of the respondent in the presence of witnesses without any pressure or undue influence from any quarters and further, that no useful purpose will be served by keeping the proceedings in the said G.R. Case alive.

11. Upon hearing the parties, this Court having been acquainted with the facts and circumstances of the case between the parties, particularly the said G.R. Case No 17/2017 pending before the Court of the learned Judicial Magistrate First Class, Mawkyrwat, without touching upon the merits of the case, has only to ensure that the compromise reached between the parties was bonafide or not and whether there was a genuine effort to bring rapprochement to end any evidence of hostility between them.

12. From the submission made and on perusal of the contents of the said Compromise Deed (Annexure A-5), this Court is convinced that there is no malafide in the same and that the parties have indeed come to terms with each other and peace between them is the motive.

13. The case of ***Gian Singh v. State of Punjab & Anr: (2012) 10 SCC 303*** at paragraph 61 would be relevant in this regard as at the said paragraph, the Hon'ble Supreme Court has held as follows:

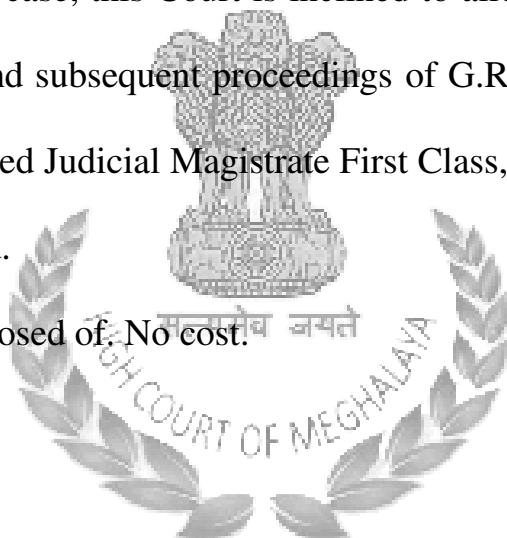
“61. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that

the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

14. This Court under Section 482 Cr.P.C. has ample power to ensure that there shall not be any abuse of the process of the Court or to secure ends of justice and given the situation as indicated above, it appears that even if the case before the learned Judicial Magistrate First Class, Mawkyrwat proceeds, there is no likelihood in the case ending in conviction of the accused/petitioner with no credible witnesses coming forward.

15. This being the case, this Court is inclined to allow this petition and to direct that the FIR and subsequent proceedings of G.R. Case No. 17/2017 in the Court of the learned Judicial Magistrate First Class, Mawkyrwat is hereby set aside and quashed.

16. Petition is disposed of. No cost.



Judge

Meghalaya
17.12.2021
"D. Nary, PS"