

Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn. No. 85 of 2023

Date of Decision: 27.07.2023

Shri. Mark Adon Nongphud

Vs. State of Meghalaya & Anr.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)

Mr. R. Pahsyntiew, Adv.

For the Respondent(s)

Mr. S.A. Sheikh, GA. for R 1.

Mr. J.K. Pariat, Adv. for R 2.

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

JUDGMENT (ORAL)

1. Heard Mr. R. Pahsyntiew, learned counsel for the petitioner as well as Mr. S.A. Sheikh, learned GA for the State respondent No. 1 and Mr. J.K. Pariat, learned counsel for the respondent No. 2.

2. The learned counsel for the petitioner has submitted that on 23.07.2022 at around 11:40 PM or so, his cousin was riding a scooty bearing registration No. ML-05-L-8036 along with pillion rider while returning from Mawlai to Laban, and on reaching the junction where the Petrol Pump is situated near the Anjalee Cinema Hall, the petitioner

who was also riding a scooty bearing registration No. ML-05-W-8249 in a rash and negligent manner collided with the said scooty ridden by his cousin as a result of which, his cousin as well as the pillion rider sustained injuries and was shifted to Nazareth Hospital for medical treatment. Thereafter, the respondent No. 2 lodged an FIR on 24.07.2022 before the Officer-in-Charge, Sadar Police Station (Traffic Branch), Shillong and a criminal case was registered being Sadar P.S. Case No. 172 (7) 2022 under Section 279/338/427 IPC.

3. On investigation being completed, charge sheet was filed and a regular case was duly registered being G.R. Case No. 72 (S) of 2022 pending before the Court of the learned Judicial Magistrate First Class, Shillong. Evidence is yet to commence in the said case, submits the learned counsel.

4. At this point of time, the petitioner has approached this Court with this instant application under Section 482 Cr.P.C with a prayer to quash the FIR dated 24.07.2022 and the consequential G.R. Case No. 72 (S) of 2022.

5. The submission of the learned counsel is that the parties concerned have come to a compromise and understanding and to this effect; a Deed of Compromise was executed between them, copy of the Compromise Agreement dated 24.08.2022 being annexed herewith as

Annexure-5. In terms of the said agreement, the first party that is the petitioner herein, has agreed to compensate the injured for all the expenses incurred by them in the course of medical treatment which amounts to ₹ 3,20,000/- (Rupees three lakhs twenty thousand) only. The respondent No. 2 has also acknowledged and confirmed the said Compromise Agreement and has also indicated that the sum of money which was assured by the petitioner/first party has been duly paid, a receipt of which is also annexed in this petition being Annexure-7 at page 50.

6. It is the submission of the learned counsel for the petitioner that since the parties have now settled the matter amicably, nothing remains as far as the dispute is concerned and since a criminal proceeding is undergoing, particularly involving Section 279 IPC which is non-compoundable, therefore, the petitioner has now approach this Court with this instant application and prayer as aforesaid.

7. In support of his submission, the learned counsel has referred to the judgment passed by this Court in the case of *Gary Synroplang Doonai Ranee v. State of Meghalaya* reported in 2021 SCC OnLine Megh 236, which facts and circumstances of such case is similarly placed with the case in hand and in which case, this Court having considered all aspects of the matter, has allowed the prayer of the

parties therein.

8. The respondent No. 2 submitting through Mr. J.K Pariat, learned counsel, has no objection to the prayer made by the petitioner and has concurred with the submission so made. In fact, the respondent No. 2 confirming the execution of the said Compromise Agreement and the receipt of all the sum of money which was agreed upon to by the parties, he would also submit that it would be just and proper to close the related proceedings and that it will be a futile exercise if the proceeding before the Trial Court is to continue.

9. The learned GA appearing on behalf of the State respondent has submitted that the role of the State in this matter is very limited, and since both parties have decided to compromise, there is nothing much to say in the matter.

10. This Court on consideration of the submission made, without repeating the facts as has been stated above and on perusal of the petition as well as the Compromise Agreement would opine that the case not being very serious in nature and the matter having been settled amicably between the parties, it would indeed be a futile exercise for the Trial Court to continue with the proceedings and the matter would have been settled at the level of the Trial Court, but for Section 279 IPC, which is non-compoundable. There are a catena of judgments,

particularly passed by the Hon'ble Supreme Court, which has given power to this Court even under Section 482 Cr.P.C to compound a non-compoundable section of law under peculiar facts and circumstances of a particular case.

11. In the case of *Gary Synroplang Doonai Ranee* (supra), this Court, while deciding the matter, has referred to the case of *Narinder Singh & Ors v. State of Punjab & Anr: (2014) 6 SCC 466* which is also relied upon by the petitioner at para 29.1, 29.2, 29.4 & 29.5. For ready reference, the same are reproduced herein below:

“29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.4. On the other, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes

should be quashed when the parties have resolved their entire disputes among themselves.

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 cases.”

12. The authority of the said Narinder’s case would be equally applicable to the facts and circumstances of this instant case.

Accordingly, this Court is inclined to allow the prayer made.

13. Resultantly, the FIR dated 24.07.2022 filed by the respondent No. 2 herein and also the subsequent G.R. Case No. 72 (S) of 2022 is hereby set aside and quashed.

14. The petitioner is released and discharged from any liability as far as the said case is concerned.

15. In view of the above, Crl.Petn. No. 85 of 2023 is accordingly disposed of. No costs.

Judge

Meghalaya
27.07.2023
“D. Nary, PS”