

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM; NAGALAND; MIZORAM AND ARUNACHAL PRADESH)

ITANAGAR PERMANENT BENCH
NAHARLAGUN

CRIMINAL PETITION No. 03/2018

- 1. Shri Karik Tabing,**
S/O Shri Koko Tabing,
Permanent resident of Village Taki-Lalung,
P.O Yagrung & P.S-Pasighat, East Siang
District, Arunachal Pradesh.
Phn No.08837316450.
- 2. Shri Tumbe Yao,**
S/O Shri Takut Yao,
Permanent resident of Village Gete,
P.O-Payum & P.S-Kaying, Siang District,
Arunachal Pradesh, Ph. No.08787482324.
- 3. Shri Layor Lombi,**
S/o Shri kala Lombi,
Permanent resident of Village Tirbin,
P.O & P.S Tirbin, Lower Siang District,
Arunachal Prades, Phn.8257981238
- 4. Shri Likha Napa,**
S/o Shri Likha Teki,
Resident of ESS Sector, Itanagar,
P.O/P.S.-Itanagar, Papum Pare District,
Arunachal Pradesh, Itanagar,
Ph. No.08729818117
- 5. Shri Goda Sanjay,**
S/o Shri Goda Aguk,
Permanent resident of Village Yanglong,
P.O & P.S Palin, Kra Dadi District,
Arunachal Pradesh.
Ph no.9774950657

.....Petitioners

-VERSUS-

The State of Arunachal Pradesh(represented by
the Ld. Public Prosecutor)

.....Respondent

By Advocates:

For the petitioners:

N.Ratan
K.Loya
T.Taggu
R.Ngomle
M.Ete
M.Ninu
R.Riba
B.Tajik
K.Mengu

For the respondents:

Ms. M.Tang, Addl. Public Prosecutor.

:::BEFORE:::

HON'BLE MR. JUSTICE AJIT BORTHAKUR

Date of hearing : **02.02.2018.**

Date of Judgment : **02.02.2018.**

JUDGMENT AND ORDER (ORAL)

02.02.2018

1. Heard Mr. N. Ratan, learned counsel appearing for the petitioners and Ms. M.Tang, learned Addl. Public Prosecutor for the state of Arunachal Pradesh.
2. By this application Under Section 482 CrPC, the petitioners have prayed for quashing of the Itanagar P.S. Case No.319/2017 under sections 380/34, of the Indian Penal Code on the ground of compromise reached between them outside the court.

3. The case of the Petitioners, in brief, is that **petitioner No. 1** is a government servant, and a permanent resident of Villlage Taki-Lalung, P.O-Yangrung & P.S-Pasighat, East Siang District, Arunachal Pradesh and presently serving as an IRBN posted in Seijosa, Arunachal Pradesh; the **petitioner No. 2** is also a government servant and permanent resident of Villlage Gete, P.O-Payum & P.S- Kaying, Siang District, Arunachal Pradesh and presently serving as an IRBN posted in Jullang, Itanagar; the **petitioner No. 3** is a permanent resident of Villlage Tirbin, P.O & P.S-Tirbin, Lower Siang District, Arunachal Pradesh; the **petitioner No. 4** is a permanent resident of ESS Sector, Itanagar, P.O & P.S – Itanagar, Arunachal Pradesh and the **petitioner No. 5** is a permanent resident of Villlage-Yanglong, P.O & P.S-Palin, KraDadi District, Arunachal Pradesh, presently residing at Tashi Yang Apartment near UD Office Mowb-2, Itanagar, Arunachal Pradesh. The petitioners No. 3, 4 & 5 are students and unemployed youths. The petitioner No. 1, who was posted at Seijosa, was approached by a person from Assam to buy his Motor Cycle as the said person was in urgent need of money. Since the condition of the Motor Cycle was good and the price of Rs.60,000/-(Sixty thousand) only seemed to be reasonable, the petitioner No. 1 informed the said offer to the petitioner No. 2. The petitioner No. 2 became interested to purchase the Bike and so he deposited the amount of Rs. 40,000/-(forty thousand) only and asked him to contribute the rest amount of Rs.20,000/-(twenty thousand) only which will be repaid later on. Accordingly, the petitioner No. 1 purchased the Motor Bike. Thereafter, the petitioner No.2 was freely using the said Bike in Itanagar area, but to his utter shock, he was arrested by the Police of Itanagar P.S., on 23.12.2017, accusing him of commission of theft of the Motor Cycle of the petitioner No. 5. The petitioners have further contended that the petitioner No. 5 lodged an F.I.R on 05.12.2017, at about 3P.M to the effect that some 'unknown miscreants' committed theft of three Motor Bikes from Tashi Yang Apartment, Itanagar, which was registered as Itanagar P.S. Case No.319/2017 under sections 380/34 IPC was registered. Thereafter, on the following day, that is, on 24.12.2017, the petitioner No.1 was also arrested. The petitioners have stated that the petitioners No. 1 & 2 were *bonafide* purchaser of the Bike and did not know that the said Bike was a stolen one. Thereafter, the petitioners No. 1 & 2 jointly undertook to indemnify for the loss suffered by the petitioners No. 3, 4, & 5 and accordingly, paid them an amount of Rs.4,20,000/-(four lac twenty thousand) only for all the Motor Cycles which were stolen from Tashi Yang Apartment. Accordingly, all the petitioners have settled the matter vide a Deed of Settlement, dated 02.01.2018, whereby, the petitioners No. 3, 4 & 5 have undertaken not to

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pursue the case anymore against the petitioners No.1 & 2. Hence, the instant petition under section 482 CrPC as allowing the criminal proceeding to continue against them will be a futile exercise and would not lead to conviction of the petitioners No. 1 & 2.

4. Ms. M. Tang, learned Addl. Public Prosecutor submits that the investigation into the aforesaid case has been completed with the filing of the charge-sheet under sections 380/411 IPC and in the backdrop of the averments made by the petitioners that the case has been amicably settled by them executing a Deed of Settlement, she has 'NO OBJECTION' in quashing the charge-sheet and the F.I.R as prayed.

5. The case diary, as called for, is placed before the Court. The case diary reveals that the investigation is completed with the filing of the charge-sheet under section 380 IPC against the petitioner No. 1 and under section 411 IPC against the petitioner no. 2.

6. In view of the above reasons, narrated in the petition and hearing the learned counsels of both the sides, this Court of the opinion that although the charge-sheeted offences are non-compoundable, allowing the prosecution to continue with the proceeding would amount to abuse of the process of the court and as such to meet the ends of justice, the Itanagar P.S. Case No. 319/2017, needs to be quashed and set aside.

7. Accordingly, **the petition stands allowed** and the Itanagar P.S. Case No. 319/2017 is hereby quashed and set aside.

8. With the above directions, the Criminal petition stands disposed of. However, there shall be no order as to be costs.

JUDGE

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