

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

ITANAGAR PERMANENT BENCH
(NAHARLAGUN)

Crl. Petn. 58 (AP) 2017

1. Shri Dibang Tayeng,

Son of Late Mading Tayeng,

Resident of Pasighat,

P.O & P.S. Pasighat, District-East Siang,

Arunachal Pradesh.

.....petitioner.

-VERSUS-

1. The State of Arunachal Pradesh,

2. Smti. Cintina Motong Tayeng,

Wife of Sri Dibang Teyeng, resident of Nili

Vihar, Itanagar, P.O. & P.S. Itanagar,

Arunachal Pradesh.

.....respondents.

By Advocates:

For the petitioner:

Mr. B. Boruah,

Mr. S. Taye,

Mr. R. Bori

For the respondents:

Ms. M. Tang, learned Addl. P.P. (AP),

Mr. U. Bori,

Mr. O. Mibang

:::BEFORE:::
HON'BLE MR. JUSTICE AJIT BORTHAKUR

Date of hearing : **05.02.2018.**

Date of Judgment : **05.02.2018.**

JUDGMENT & ORDER (ORAL)

Heard Mr. B. Boruah, learned counsel appearing for the petitioner and Mr. U. Bori, learned counsel for the respondent No.2. Also heard Ms. M. Tang, learned Addl. P.P. for respondent No.1.

2. By this application under Section 482 of the Cr.P.C read with Section 401 of the Cr. P.C., the petitioner has prayed for quashing of the proceeding of Itanagar WPS Case No. 87/2014 (corresponding to G.R. Case No. 750/14) under Section 498 A/494/325/506/120 B of the Indian Penal Code, read with Section 25 of the Arms Act pending in the court of learned Judicial Magistrate, First Class, at Yupia, District Papum Pare, Arunachal Pradesh.

3. The petitioner's case, in a nut-shell, is that he is an Executive Engineer, in the Department of Water Resources, Government of Arunachal Pradesh and opposite party No.2 is his wife. Due to irreconcilable domestic differences, they have been constantly litigating by filing a number of criminal and civil cases filed by the opposite party No.2, which includes Complaint case No. 48/2014 under Section 125 Cr.P.C.; D.V. case No. 10/2014 and Itanagar WPS Case No. 87/2014 under Sections 498 A/494/325/506/120 B IPC read with Section 25 of the Arms Act. Having realized that to maintain peace and harmony in their matrimonial dispute, as nobody is going to be benefited by such litigations and hatred, both parties resolved to settle their disputes and differences in the Lok Adalat, through amicable settlement and accordingly, the Lok Adalat held on 14.05.2016 settled their disputes, by way of passing the order, which is extracted herein below-

"Cintina Moyong Complainant is present along with the counsel also defendant/accused is present, defendant agreed to pay Rs. 40 Lakhs as one time settlement by way of 2 (two) installment i.e. first installment Rs. 20 Lakhs to be paid on or before 31st August 2016 and another Rs. 20 Lakhs to be paid on or before December 2016. Meanwhile parties agreed to compound the remaining pending cases between them. Hence, with this the matter is settled and disposed off"

4. The petitioner complied with the terms of the above settlement and satisfied his part of promise. However, the opposite party No. 2 is yet to withdraw her aforesaid Criminal case being Itanagar Women P.S. Case No. 87/2014 (corresponding to G.R. Case No.750/2014) and other parallely drawn cases, which are still pending in the court at Yupia, District Papum Pare, Arunachal Pradesh. Therefore, he wrote a letter, dated 26.05.2017, addressed to the opposite party No.2 and her counsel to withdraw the said case and also CR case No. 10/2014 prior to amicable settlement reached in the Lok Adalat, held on 14.05.2016. According to the petitioner, the learned Judicial Magistrate, First Class, Yupia, Papum Pare, Arunachal Pradesh, despite noticing the fact that the disputes between the parties were amicably settled in the Lok Adalat, has fixed the next date on 22.09.2017 for their appearance and consideration of charges. Therefore, the petitioner has stated that continuation of the aforesaid case amounts to abuse of the process of the court of law and consideration of charges at the same time is against the interest of justice.

5. Mr. B. Boruah, learned counsel for the petitioner submits that in view of settlement of the cases between the parties in the Lok Adalat, the continuation of the above mentioned case would be prejudicial to the interest of both the petitioner and the Opposite Party No.2 and as such, would only amount to abuse of the process of court, for which reason the aforesaid case may be quashed.

6. Mr. U. Bori, learned counsel appearing for the Opposite Party No. 2, admits the above fact submitted by the learned counsel for the petitioner and therefore, submits 'No Objection' against the prayer for quashing of the said Criminal Case. Mr. Bori, further submits that the fire arm which was allegedly used by the petitioner was a licensed Pistol bearing No. 8005ESD, dated 23.11.2006, valid upto 31.12.2015, was recovered and seized in repairing condition, out of the possession of one Sri Arun Sharma of Gun Repairing Centre, Pasighat.

7. Ms. M. Tang, learned Addl. P.P., Arunachal Pradesh submits 'No Objection' against the prayer for quashing of the case.

8. This court has taken into consideration of the above facts averred in the petition, which is supported by an affidavit and the respective submissions of the learned counsel of both the sides and being satisfied that both parties have amicably settled their cases, and further, also the fact that the petitioner has complied with the terms of the settlement quoted above, this court is of the opinion that continuation of the above criminal proceeding will be nothing, but the abuse of the process of court as submitted by the learned counsel for both the sides.

9. For the reasons, set forth above and to meet the ends of justice to both the parties, G.R. Case No. 750/14 under Section 498A/494/325/506/120 B IPC read with Section 25 of the Arms Act, pending in the court of learned Judicial Magistrate, First Class, at Yupia, Papum Pare, Arunachal Pradesh is hereby quashed.

Accordingly, the instant criminal petition stands **disposed of**.

JUDGE

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