

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

**ITANAGAR PERMANENT BENCH (NAHARLAGUN)**

**Criminal Petition No. 42(AP) of 2019**

1. **Shri Damdo Zirdo,**

S/o Shri Tadam Zirdo, Resident of Bigi,

PO/PS Gensi, Lower Siang District.

Arunachal Pradesh

2. **Shri Bomli Ngucho,**

S/o Lt. Tabom Ngucho, Resident of village Bomte,

PO/PS Gensi, Lower Siang District.

Arunachal Pradesh

3. **Shri Shiv Kumar Sahani,**

S/o Lt. Golab Sahani, presently residing at village Siji,

PO/PS Likabali, Lower Siang District.

Arunachal Pradesh

..... **Petitioners.**

-VERSUS-

1. The State of Arunachal Pradesh, through the learned Public Prosecutor, Government of Arunachal Pradesh.

.....**Respondents.**

**::BEFORE::**

**THE HON'BLE MR JUSTICE AJIT BORTHAKUR**

**Date of hearing : 12.09.2019**

**Date of judgment : 12.09.2019**

**By Advocates:**

For the **petitioners:** Mr. A. Bhattacharjee.

For the **respondents**: Mr. J. Tsering, learned Addl. P.P for the State of Arunachal Pradesh.

### **JUDGMENT & ORDER(oral)**

Heard Mr. A. Bhattacharjee, learned counsel appearing for the petitioners and Mr. J. Tsering, learned Additional Public Prosecutor appearing for the State of Arunachal Pradesh.

**2.** By this petition, under Section 482 of the Code of Criminal Procedure, the petitioners have prayed to set aside and quash Likabali P.S. FIR No.06/2019, under Sections 324/341/34 of the Indian Penal Code (for short 'IPC').

**3.** The petitioners' case, in a nutshell, is that the petitioner No.3 lodged an FIR before the Officer-in-Charge, Likabali P.S., on 22.01.2019, alleging that the petitioners No. 1 and 2 followed him on a motorcycle with registration No.AR-01-1454 while coming from Gensi towards Likabali with his truck bearing registration No.AS-22-7796 and obstructed him on the way and assaulted him, without any reason. In connection with the said incident, the police arrested and released on bail of the petitioners No. 1 and 2. Later, the petitioners No. 1 and 2 have amicably settled the case as per their customary laws, on 14.02.2019, by executing a Deed of Settlement vide annexure-C and as per the terms of the said settlement they have agreed not to pursue the case.

**4.** Mr. A. Bhattacharjee, learned counsel appearing for the petitioners, submits that in view of the nature of the offences allegedly committed by the petitioners No. 1 and 2 being not heinous in nature and the incident also compromised between them and the injured/informant petitioner No.3, it is in the interest of preventing the abuse of the process of the Court and to secure the ends of justice to them that the FIR may be set aside and quashed as prayed.

**5.** Mr. J. Tsering, learned Addl. Public Prosecutor, fairly submits that considering the nature of the offences allegedly committed and to endure the understanding arrived at between the parties as per the customary laws, the petition may be allowed.

**6.** In the case of the *State of Madhya Pradesh Vs. Laxmi Narayan & Ors.*, reported in (2019)5 SCC 688, the Hon'ble Supreme Court in Para-13 of the judgment held as herein below extracted;

*"13...Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:*

*i) that the power conferred under [Section 482](#) of the Code to quash the criminal proceedings for the non-compoundable offences under [Section 320](#) of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;*

*ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;*

*Iii) similarly, such power is not to be exercised for the offences under the special statutes like [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;*

*iv) offences under [Section 307](#) IPC and the [Arms Act](#) etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under [Section 307](#) IPC and/or the [Arms Act](#) etc. which have a serious impact on the society cannot be quashed in exercise of powers under [Section 482](#) of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of [Section 307](#) IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of [Section 307](#) IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under [Section 307](#) IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such*

*injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;*

*v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc....”*

**7.** Having heard the above submissions made by the learned counsel of both sides and perusal of the case record including the FIR, dated 22.01.2019 and the terms of the amicable settlement arrived at immediately after the alleged commission of the offences, on 04.02.2019, following the customary laws and further, the aforesaid offences being private in nature without any social impact, the joint prayer for setting aside and quashing the FIR may be allowed following the guidelines laid by the Hon'ble Supreme Court laid in *Laxmi Narayan* case (supra).

**8.** Accordingly, Likabali P.S. FIR No.06/2019, under Sections 324/341/34 of the Indian Penal Code and the proceeding arising therefrom are hereby set aside and quashed.

The petition stands **disposed of**.

**JUDGE**