

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

ITANAGAR PERMANENT BENCH
(NAHARLAGUN)

Crl. Petn. 08 (AP) 2018

1. Mr. Rubul Biswakarma,

S/o Lt. Baba Presently residing at A-Sector
Naharlagun,
P.O/P.S. Naharlagun, District Papum Pare,
presently posted at PHQ Itanagar,
Arunachal Pradesh.
M. No:- 7005350228

2. Mr. Kento Bagra,

S/o Mr. Kacken Bagra,
Village-Upi Bagra P.O/P.S Along, Dist-
W/Siang,
Arunachal Pradesh, presently posted at PHQ
Itanagar.

3. Mr. Dopin Sora

S/o Mr. Ledo Sora,
Village-Taba Sora P.O/P.S Along, Dist-
W/Siang
Arunachal Pradesh, presently posted at PHQ
Itanagar, A.P.

4. Mr. Idar Doke,

S/o Doye Doke
Village-Taba Sora P.O/P.S Along, Dist-
W/Siang
Arunachal Pradesh, Presently posted at Aalo
Camp, P.O/P.S Aalo. Dist W/Siang A.P.

5. Mr. Geli Doje

S/o Marge Doje,
Village-Doji P.O/P.S Bagra, Dist-W/Siang
Arunachal Pradesh, Presently posted at Chief
Minister cell, Itanagar. P.O/P.S Itanagar, A.P.

.....**Petitioners.**

-VERSUS-

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

.....Respondent.

By Advocates:

For the petitioner:

D. Panging,
V. Jamoh,
D. Tamuk
M. Doji
M. Gibi
G. Basar

For the respondents:

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

:::BEFORE:::

HON'BLE MR. JUSTICE AJIT BORTHAKUR

Date of hearing : **07.02.2018.**

Date of Judgment : **07.02.2018.**

JUDGMENT & ORDER (ORAL)

Heard Mr. V. Jamoh, learned counsel appearing for the petitioner.
Also heard Ms. M. Tang, learned Addl. P.P. for the State respondent.

2. By this application under Section 482 of the Cr.P.C, the petitioners have prayed for quashing and setting aside the Naharlagun P.S. Charge-sheet No. 27/2009, under Sections 341/352/511/34 IPC, (corresponding to GR case No.186/2007) pending in the court of learned Chief Judicial

Magistrate, Capital Complex, Yupia, against them and the connected FIR No.186/2007.

3. The petitioners' case, in a nutshell, is that the petitioners No. 1,2,3,4 & 5 are employed as Police Constables in Arunachal Pradesh Police Battalion and they are friends. The petitioners have contended that the petitioner No. 1 had filed an FIR, on 19.09.2007, against the petitioners No. 2,3,4 & 5, out of a fun making talkings amongst them on 18.09.2017, after immersion of the idol of Biswakarma in Dikrong river at Doimukh, in inebriated condition, which was registered as Naharlagun P.S. case No. 186/07 under Section 341/352/511/341 IPC. The police, after completion of investigation, submitted charge sheet under Sections 447/323/511/34 IPC. The petitioners have stated that they have mutually settled the incident terming the same to be a consequence of misunderstanding and therefore, the petitioner No.1 is not willing to pursue the case any further and as such, continuation of the aforesaid criminal proceeding would be an abuse of the process of the court and would be a useless exercise.

4. Mr. V. Jamoh, learned counsel for the petitioner, submits that having regard to the compromise reached amongst the petitioners, the case in question may be quashed by this court in exercise of its inherent jurisdiction under Section 482 Cr. P.C.

5. Ms. M. Tang, learned Addl. P.P., Arunachal Pradesh submits that the offences under Sections 341/352 IPC are being bailable, the petitioners may approach the court below for compounding the offences.

6. It is seen that the substantive offences, under which the above mentioned charge sheet has been submitted are bailable. So far Section 511 IPC is concerned, it signifies an attempt to commit an offence. Section 511 IPC is not meant to cover the penultimate act towards the commission of an offence. Therefore, attempt on the part of the accused is a sine qua non for the offence under Section 511 IPC. Attempt to commit is an essential condition, if such attempt succeeds it may

constitute the offence which is punishable with the aid of Section 511 IPC, that is, attempt to commit the offences.

7. In the case of ***B.S. Joshi & Ors. Vs. State of Haryana & Anr.***, reported in ***(2003) 4 SCC 675***, the Supreme court has held that –

".... The High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code."

8. Taking into account the rival contentions as made by the parties and also the facts averred in this petition and upon hearing the learned counsel of both sides, this Court is of the considered opinion that Naharlagun P.S. Charge-Sheet No. 27/2009, under Sections 341/352/511/34 IPC (corresponding to G.R. Case No. 186/2007), be quashed and set aside.

Accordingly, the Naharlagun P.S. Charge-Sheet No. 27/2009, under Sections 341/352/511/34 IPC is hereby quashed and set aside.

9. With the above directions, the instant Criminal petition stands **disposed of.**

JUDGE

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