

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM: NAGALAND: MIZORAM & ARUNACHAL PRADESH)

ITANAGAR PERMANENT BENCH (NAHARLAGUN)

Criminal Petition No.125 (AP) 2018

Sh. Payi Gyadi,
S/O Papu Gyadi, Resident of Barapani Colony,
Naharlagun, PO/PS-Naharlagun, District-Papum Pare,
Arunachal Pradesh

..... *Petitioner.*

– VERSUS –

1. The State of Arunachal Pradesh, represented through the Public Prosecutor,
Govt. of Arunachal Pradesh.
2. Shri Lobsang Tashi,
S/O Lt. Serak Tashi, Resident of Barapani, near Lagun Bridge, back side
Green Valley, Naharlagun, PO/PS-Naharlagun, District-Papum Pare,
Arunachal Pradesh

..... *Respondents*

Advocate for the Petitioner: Mr. B. Picha.

Advocate for the Respondents: Mr. J. Tsering, Addl. P.P
Mr. K. Lollen

::BEFORE::

HON'BLE MR. JUSTICE NANI TAGIA

Date of Hearing & Judgment: 21.11.2019

JUDGMENT AND ORDER (Oral)

Heard Mr. B. Picha, learned counsel for the petitioner. Also heard Mr. J. Tsering, learned Additional Public Prosecutor for the State respondent No.1 and Mr. K. Lollen, learned counsel for the respondent No.2.

2. This Criminal petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of Naharlagun P.S. Case No.183/2018

registered under Sections 447/427/323/506 of the Indian Penal Code. The aforesaid Naharlagun P.S. Case came to be registered on an FIR dated 05.10.2018, filed by the respondent No.2, Sh. Lobsang Tashi before the Officer-in-Charge, Naharlagun P.S., which is quoted herein below.

" To,

Dated:-05/10/2018

*The Officer-in-Charge
Naharlagun Police Station
Arunachal Pradesh*

Sub:- FIR regarding illegal construction at labour barrack of M/s Arunachal Spun Pipe company, Barapani, Naharlagun.

R/Sir,

With due regards I am to inform you that Sri Payi Gyadi have wrongfully trespass in my labour barrack under M/s Arunachal Spun Pipe company, located at Barapani, Naharlagun and started to construct some permanent structure at the said abovementioned place and also demolished some portion of wall of the said labour barrack without my knowledge. Today on 05/10/2018 at around 3.30 pm when I along with my brothers accompanied by the police forces went to the said labour barrack to inquire regarding the illegal encroachment and construction work carried out by Sri Payi Gyadi, when we reached the spot some goons of Sri Payi Gyadi was present at the spot. One lady and a man assaulted my elder brother physically and gave life threatening warning to him in front of the police personal.

Therefore, it is prayed before your good office kindly look into the matter and take strict and necessary action against the wrongdoer as soon as possible and they may be book under the various sections of law for the end of justice.

I shall remain grateful to you for such act of your kindness.

Thanking you.

Your sincerely

Sd/-

Shri Lobsang Tashi

S/o late Serak Tashi

Proprietor M/s Arunachal

Pradesh spun Pipe company

R/o Naharlagun, Arunachal

Pradesh."

3. It has now been submitted by the learned counsels appearing for the parties that the investigation of the case has been completed and the petitioner has been charge-sheeted under Sections 447 and 427 of the IPC.

4. From the reading of the FIR dated 05.10.2018 as quoted herein above, I am of the view that no conclusion can be drawn that no offence under Sections 447 as well as 427 of the IPC can be said to have not been, *prima facie*, made out. On reading of the FIR dated 05.10.2018, I am of the view that the FIR, *prima facie*, discloses an ingredient under Sections 447 as well as 427 of the IPC. This of course, is not a final opinion of this Court, rather it is only a *prima facie* view of this Court, for which reasons, I do not find that the petitioner has made out a case for quashing of an FIR dated 05.10.2018 in exercise of the power under Section 482 of the Cr.P.C.

The Criminal petition accordingly, stands dismissed on being devoid of merit.

JUDGE

Pura