



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn. No. 99 of 2021

Date of Decision: 25.02.2022

Shri Javed Akhtar & Anr. Vs. State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. A. S. Siddiqui, Sr. Adv. with
Ms. M.K. Sah, Adv.

For the Respondent(s) : Mr. B. Bhattacharjee, AAG. with
Ms. Z.E. Nongkynrih, GA.

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| i) | Whether approved for reporting in
Law journals etc.: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |

1. Matter is taken up via hybrid mode.

2. Heard Mr. A.S. Siddiqui, learned Sr. counsel along with Ms. M.K. Sah, learned counsel for the petitioners who has submitted that this instant application has been preferred u/s 482 Cr.P.C with a prayer to quash the proceedings in GR Case No. 278(S) of 2014 pending in the Court of the learned Chief Judicial Magistrate, Shillong.

3. Mr. Siddiqui while narrating the sequence of events has submitted that the petitioner No. 1 and the petitioner No. 2 herein are business partners. Following a misunderstanding in a business deal, the petitioner No. 1 on 24.10.2013 lodged an FIR against the petitioner No. 2 and another person named Abdul Kadir Laskar before the Lumdiengjri Police Station which was



registered as Lumdiengjri P.S Case No. 102(10)2013, u/s 419/420/468/34 IPC whereupon, the petitioner No. 2 was arrested and later released on bail.

4. On investigation being completed, the Investigating Officer (I/O) filed the charge sheet before the Court of the learned Chief Judicial Magistrate, Shillong stating that on the facts and circumstances, a prima facie case u/s 419/420/468/34 IPC has been found well established against the petitioner No. 2 for which he was send up to the Court for trial.

5. Accordingly, GR Case No. 278(S) of 2014 was registered and trial commenced before the Court of the learned Chief Judicial Magistrate, Shillong. Charges were framed u/s 419/420/468/34 IPC against the petitioner No. 2 on 16.03.2017 and at present, the case is at the stage of examination of prosecution witnesses.

6. In the meantime, the petitioner No. 1 and petitioner No. 2 herein have amicably settled their differences, which was reduced in writing by way of a Deed of Compromise, dated 14.01.2020. One of the conditions stipulated in the said Deed of Compromise is that, the parties will take appropriate steps to file a joint application before the Hon'ble Court for withdrawal and/or quashing/compounding of offences in the said case.

7. The application was moved before the Trial Court, however vide order dated 14.01.2020, the Trial court has rejected the application on the ground that Section 468 IPC is not compoundable.

8. The petitioners then approached this Court, as stated above with a petition u/s 482 Cr.P.C for consideration.

9. Mr. Siddiqui has further submitted that the petitioner No. 1 and petitioner No. 2 have come to an amicable settlement for which the petitioner No. 2 has already issued a blank dated cheque of rupees three lakhs as part of the settlement, the same to be effective in the event the Court allows the application for quashing of the said proceedings.



10. It is therefore prayed that this petition may be allowed since no legal or practical purpose will be served by prolonging the proceedings of the said GR Case No. 278(S) of 2014.

11. Mr. B. Bhattacharjee, learned AAG along with Ms. Z.E. Nongkynrih, learned GA appearing for the State respondent has raised strong objection to the prayer made in this petition, by firstly pointing out that the Deed of Compromise cannot be accepted since the same is conditional and will be effective only when the Court allows the prayer for quashing of the said proceedings in GR Case No. 278(S) of 2014 and as such, no actual and meaningful compromise has been arrived at between the parties. Secondly, it is also pointed out that from the charge sheet filed by the I/O, it is noticed that another person is involved in the case, that is Shri Abdul Kadir Laskar who is found to have absconded and could not be apprehended till date and as such, in the absence of all the persons involved, the Deed of Compromise cannot be effectuated. Accordingly, this application is premature and devoid of merit. The same is liable to be dismissed.

12. Section 482 Cr.P.C reads as follows: -

“482. Saving of inherent power of High Court. - Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

13. The above provision empowers the High Court with inherent powers to pass necessary orders or to give effect to any order under this Code to prevent abuse of the process of any Court or to secure the ends of justice.

14. A catena of decisions, particularly authorities rendered by the Hon’ble Supreme Court as well as various High Courts of the country are well settled on this issue that if compromise is reached within the parties, especially in cases which are private in nature with no adverse societal impact, the High Court can compound non-compoundable sections of the Cr.P.C and grant



relief to the parties under the particular facts and circumstances of the case. For example, that the ends of justice will be served if no useful purpose is found and if the proceeding is allowed to continue.

15. In the case of ***Narinder Singh & Ors v. State of Punjab & Anr: (2014) 6 SCC 466***, the Hon'ble Supreme Court has dealt at length on the power of the High Court u/s 482 Cr.P.C to accept the settlement between the parties by way of compromise in a criminal proceeding for exercise of its inherent power. It has been held that the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. This would be to secure the ends of justice or to prevent the abuse of the process of any Court.

16. The so called compromise between the petitioners No. 1 and 2 herein cannot be affected since it is conditional to the extent that the parties will settle their differences only in the event the Court allows the application for withdrawal or for compounding of the case, which is practically putting the cart before the horse and cannot be contemplated in these proceedings.

17. As pointed out by the learned AAG, the proceedings referred to by the petitioners herein was not confined only between them, but another person is also involved, albeit having been declared an absconder. However, the provisions of the Code of Criminal Procedure do not provide for absolution of an absconder from the proceedings and relevant provisions are available to bring such an absconder before the Court for trial. In the light of this information, it stands to reason that the compromise has to be agreed to by all the parties involved and could not have been agreed to only by some of the principal players to the exclusion of others.

18. From the materials on record, it cannot be ascertain as to what was the role of the said absconding accused, Shri Abdul Kadir Laskar in the dispute between the petitioner No. 1 and the petitioner No. 2 herein and since he seems to be important enough to the extent that he has figured in the charge sheet



filed, he has to answer to the charges meted out to him. It also stands to reason that if the said proceedings in G.R. Case No 278(S) of 2014 are quashed, then no liability could be fasten to the said Abdul Kadir Laskar in the event he is apprehended or appears before the Court, which would then amount to a miscarriage of justice.

19. In view of the above observations, this Court is not inclined to allow this petition at this juncture. The same is hereby rejected.

20. Petition disposed of. No cost.

Judge

Meghalaya
25.02.2022
"N.Swer, Stenographer"

