

IN THE HIGH COURT OF SIKKIM : GANGTOK
(Criminal Jurisdiction)

Crl. M.C. No. 05 of 2020

1. Shri Indra Kumar Chettri
S/o Late Poklal Singh Chettri,
Aged: 53 years,
R/o Ben-Peku,
South Sikkim.
2. Shri Bhim Bahadur Chettri
S/o Matbir Singh Chettri,
Aged: 44 years,
R/o Ben-Peku,
South Sikkim.
3. Shri Sanjeet Chettri
S/o Bal Bahadur Chettri,
Aged: 35 years,
R/o Ben-Peku,
South Sikkim. ... Petitioners

Versus

State of Sikkim
Through:
The Ld. Public Prosecutor,
High Court of Sikkim
Gangtok. ... Respondent

BEFORE

HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI, CJ.

For the petitioners : Mr. T. R. Barfungpa, Advocate.

For the respondent : Mr. Sudesh Joshi, Public Prosecutor,
Sikkim and Mr. Sujan Sunwar, Asstt.
Public Prosecutor, Sikkim.

Date of hearing and
Judgment : 24.10.2020.

JUDGMENT & ORDER (ORAL)

(Arup Kumar Goswami, CJ)

By this application, the petitioner prays for quashing F.I.R.
No.09/2019 dated 06.04.2019 under Section 324/506 IPC as well as

G.R. Case No.24 of 2019 pending in the Court of the learned Judicial Magistrate, Yangang Sub-division, South Sikkim.

2. Petitioner nos. 2 and 3 had filed the aforesaid FIR before Temi Police Station and accordingly, Temi Police Station Case No.09/2019 was registered. It was alleged that the petitioner no.1 had threatened the petitioner no.3 and had assaulted the petitioner no.2 by hitting the petitioner no.2 with a stone which resulted in a swelling on his head. Subsequently, in G.R. Case No.24 of 2019, corresponding to Temi Police Station Case No.09/2019, charge sheet was submitted against the petitioner no.1 for offences under Section 324/506 IPC.

3. This petition is filed supported by affidavits of all the petitioners stating that the matter had been amicably settled and a Deed of Compromise dated 15.02.2020 was executed between them.

4. Mr. Barfungpa submits that the incident occurred due to misunderstanding over construction of a road and the petitioner nos.2 and 3 would not like to proceed with the case filed against the petitioner no.1. However, as the offence under Section 324 IPC is not compoundable, the case is still proceeding in the Court of learned Judicial Magistrate, Yangang Sub-Division.

5. Mr. Joshi does not oppose this petition contending that if the parties had arrived at an amicable settlement, the matter needs to be closed having regard to the offence alleged and the nature of injury sustained by petitioner no.3.

6. I have considered the submissions of the learned Counsel for the parties and have perused the materials on record.

7. The petitioner no.1 is a Head Master of a Government Primary School and the other two petitioners are his co-villagers.

8. In ***Gian Singh vs. State of Punjab and another***, reported in **(2012) 10 SCC 303**, the Hon'ble Supreme Court had laid down that it will be permissible for the High Court to quash a criminal proceeding even if the offences are not compoundable, if the High Court comes to the conclusion that continuation of the criminal proceeding will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored, thereby, securing the ends of justice. Hon'ble Supreme Court, however, sounded a note of caution to the effect that before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc., as also offences under special statutes like the Prevention of Corruption Act, 1988 or the offences committed by public servants while working in that capacity cannot be quashed even if the parties have entered into an amicable settlement.

9. The medical report annexed to the petition goes to show that the injury sustained by the petitioner no.3 is simple injury. When the parties had amicably settled the dispute and the apology tendered by the petitioner no.1 is accepted by the petitioner nos. 2 and 3, I see no good reason to allow continuation of the proceedings in G.R. Case No.24 of 2019.

10. Accordingly, G.R. Case No.24 of 2019 (State of Sikkim vs. Indra Kumar Chettri), pending in the Court of the learned Judicial

Magistrate, Yangang Sub-division, South Sikkim, is quashed. The petition is allowed and disposed of.

Chief Justice

pm