

CrI. M. C. No. 01 OF 2016

3. Chandrakala Chettri,
W/o Shri Bishnu Bahadur Chettri,
R/o Tarpin Rhenock,
East Sikkim.

----- Petitioners.

-VERSUS-

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

PETITIONER
ADVOCATE (S)
FOR ----- Mr. D. K. Siwakoti, Legal Aid Counsel.

RESPONDENT
ADVOCATE (S)
FOR ----- J. B. Pradhan, Public Prosecutor, Mr. Karma
Thinlay, Addl. Public Prosecutor, Mr. S. K. Chettri,
Asstt. Public Prosecutor and Ms. Pollin Rai, Asstt.
Public Prosecutor.

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02.	22.03.2016	Crl. M. C. No. 01 of 2016 Lok Nath Sharma & Ors. vs. State of Sikkim BEFORE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE Present: Mr. D.K. Siwakoti, Legal Aid Counsel for the Petitioners. Mr. S.K. Chettri, Assistant Public Prosecutor for the State-Respondent. ----- (1) Heard. (2) Learned Legal Aid Counsel for the Petitioners submits that in fact the Petitioner No.1 and the Victim were having a love affair and consequently eloped out of their own free will. He admits that the Victim was only 15 years old and, therefore, taken out of the lawful guardianship of the parents but at the same time it cannot be overlooked that the Victim had willingly gone with the Petitioner No.1. Subsequently, they have two children and are living as a family. The parents, i.e., Petitioner No.2 and 3, have also reconciled with the Victim and Petitioner No.1 and no fruitful purpose would be obtained by pursuing the prosecution. (3) Admittedly, there has been a delay in filing the compromise Petition but they had in fact compromised

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		the matter vide <i>Milapatra</i> dated 02.08.2013 a month after the lodging of the F.I.R. by the Petitioners No.2 and 3 at the Rhenock Police Station on 21.07.2013, a photocopy of which has been produced today for perusal by this Court. (4) Learned Legal Aid Counsel for the Petitioner has placed reliance on the decision of <i>Yogendra Yadav and Others vs. State of Jharkhand and Another : (2014) 9 SCC 653</i>, wherein the Court invoking powers under Section 482 of the Cr.P.C. quashed the F.I.R. for offences under Sections 307 and 326 of the IPC. He has also placed reliance on <i>Gian Singh vs. State of Punjab and Another : (2012) 10 SCC 303</i> and submits that since the Victim and the Petitioner No.1, intended to get married and are now married, therefore, keeping in mind the principles enunciated in <i>Gian Singh's</i> case (<i>supra</i>) and considering the facts and circumstances of this case, the F.I.R. and the proceedings in G.R. Case No. 352 of 2014 in the Court of the Learned Chief Judicial Magistrate, East & North Sikkim at Gangtok, be quashed. (5) Mr. S.K. Chettri, Learned Assistant Public Prosecutor, submits that although the offence is a

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		heinous offence in that the Petitioner No.1 took the Victim, a mere child of 15 years, from the lawful possession of her guardian but as laid down in the case of Gian Singh (supra), each case is to be decided on its facts and circumstances for the ends of justice. (6) Considered submissions. (7) From the submissions, it is apparent that the Petitioner No.1 and the Victim were in a love affair and the Victim, although a minor, has gone with the Petitioner No.1 on her own free will to get married. It is also evident from the submissions that now they have two children between them and the parents of the Victim who had lodged the F.I.R. have reconciled with the couple. It is relevant to note here that the Victim has not made any allegation against the Petitioner No.1, has not complained that he took her forcefully neither did she lodge the F.I.R. It is the Petitioners No.2 and 3 who have jointly lodged the F.I.R. They are both present in the Court today and on enquiry submit that they do not seek to pursue the prosecution, that they had lodged the FIR since they were of the belief that the Petitioner No.1 had kidnapped their child, but later came to know that she had gone of her

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		own free will. They do not seek to unsettle the family of the Petitioner No.1 and the Victim and have settled the matter amicably. (8) While considering the submissions put forth it may be noticed that the decision in Gian Singh (supra), specifies that the High Court before exercising its inherent powers under Section 482 of the Code of Criminal Procedure, 1973, should take into consideration the twin objectives, one being of preventing the abuse of the process of any Court and the other to secure the ends of justice. It was also emphasized that the exercise of the inherent powers by the High Court would entirely depend on the facts and circumstances of each case. (9) Having scanned the entire facts and circumstances of the matter at hand and the thrust of the allegations, it emerges that the grievance of the Petitioners No.2 and 3 was on account of the Victim eloping with the Petitioner No.1. What cannot be lost sight of is the fact that the Victim although a minor had gone with him willingly. Although it is true that the act of the Petitioner No.1 in enticing a minor cannot be condoned yet at the same time the larger picture of the

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		ends of justice has to be considered. In that aspect, it is evident that the Victim and the Petitioner are married, happily as we understand and the parents are reconciled to the situation and bear no ill-will to the Petitioner No.1 who they acknowledge as their son-in-law. It is clear that no fruitful purpose would be served by allowing the trial to continue when all is hunky dory between the parties concerned and would only result in breaking up a settled family which would obviously not be for the ends of justice. In fact, pursuing the Prosecution would not only prejudice the Petitioner No.1 but the victim and the Petitioners No.2 and 3, when they are now living peaceably. (10) Consequently, in view of the discussions above and to secure the ends of justice, it would be just and fair to grant the prayer of the Petitioners. Accordingly, the F.I.R. No.8(07)2013 dated 21.07.2013 stands quashed and the proceedings in G.R. Case No.352 of 2014, <i>State of Sikkim vs. Lok Nath Sharma</i> pending in the Court of Learned Chief Judicial Magistrate, East & North Sikkim at Gangtok, also stand quashed.

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ds/bp		(11) Copy of this Order be sent to the Court of the Learned Chief Judicial Magistrate, East & North Sikkim at Gangtok for information and compliance.  Judge 22.03.2016 Index : Yes / No Internet : Yes / No