

GAHC010092292025



undefined

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./519/2025

SAYED ALI AND ORS
S/O KURPAN ALI
VILL-BECHIMARI
P.O. KALGACHIA,
PS. KALGACHIA
DIST. BARPETA, ASSAM,
PIN-781319

2: AISHA KHATUN
W/O NUR ISLAM
VILL- JAMADARBARI
P.O. SORBHOG

P.S. SORBHOG

DIST. BARPETA
ASSAM
PIN-781317

3: NUR ISLAM
S/O LATE LOKMAN ALI
RILL-JAMADARBARI
P.O. SORBHOG

P.S. SORBHOG

DIST. BARPETA
ASSAM
PIN-78131

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. S AHMED, MR M RAHMAN, T UDDIN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

05.05.2026

1. Heard learned counsel Mr. S. Ahmed for the petitioners namely, (i) Sayed Ali, (ii) Aisha Khatun, and (iii) Nur Islam who have filed this application under Section 528 of the BNSS, 2023 for quashing of the impugned FIR in connection with Manikpur P.S. Case No. 466/2020 under Sections 279/304(A) of the IPC and the entire proceedings of PRC Case No. 38/2023, pending before the Court of learned CJM, Bongaigaon.
2. Heard learned Additional Public Prosecutor, Mr. D. P. Goswami for the respondent State.
3. The petitioner No. 1 has been accused in connection with PRC Case No. 38/2023 arising out of Manikpur P.S. Case No. 466/2020. The petitioner No. 1 is alleged to have been involved in an accident which resulted in the death of Anes Ali, the son of petitioner Nos. 2 and 3.
4. Charge-sheet has been laid against the petitioner No. 1 despite the fact that both the parties i.e., the parents of the deceased as well as the accused have amicably settled their dispute. Paragraph-3 of the petition clearly mentions that the matter has been amicably settled between the parties in presence of elderly

persons of the locality. Compromise deed was submitted before the Investigating Officer whereby it was resolved to withdraw this case.

5. The petitioner Nos. 2 and 3 are not willing to prosecute the petitioner No. 1. Annexures-2 & 3 are the affidavits submitted by the petitioner Nos. 2 & 3 i.e., stating that Nur Islam had lodged an FIR on 13.11.2020 before the Manikpur P.S. against the rider of the motorcycle bearing registration No. AS-26-A-2195, namely Sayed Ali who was involved in an accident resulting in the death of their son, Anes Ali. Now, both the informant, the mother of the victim and the accused have jointly filed this application to quash the proceedings.

6. The petitioners have also relied on a decision of this Court in ***Nur Nashib Ahmed Vs. the State of Assam & Anr in connection with Crl.Pet./992/2023***, wherein vide order dated 09.01.2024, it was observed that:-

“2. The present petition under Section 482 CrPC is filed for quashing of impugned FIR as well as charge sheet under Section 279 /304-A of the IPC pending in the Court of learned Judicial Magistrate First Class, Kamrup at Boko.

***** ***** *****

10. Similarly, in Parbatbhai Aahir & ors –vs- State of Gujarat reported in (2017)9 SCC 641, the Hon’ble Supreme Court has observed as under:

”16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

16.1 Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognizes and preserves powers which inhere in the High Court;

16.2 The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash

under Section 482 is attracted even if the offence is non-compoundable;

16.3 In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

16.4 While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

16.5 The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

16.7 As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

16.8 Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

16.9 In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10 There is yet an exception to the principle set out in propositions 16.8 and 16.9 above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to

quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

7. Reverting back to this case, it is held that as the informant himself is not willing to proceed with this case and as the other aggrieved persons i.e., the mother of the deceased is not willing to proceed with this case, further proceedings will indeed be an abuse of the process of the Court. Possibility of conviction appears to be remote and bleak.
8. Therefore, it appears that the inherent jurisdiction to quash the entire proceedings may be invoked.
9. In view of the foregoing discussions and after considering the submissions at the Bar, the proceedings of PRC Case No. 38/2023 arising out of the FIR i.e., Manikpur P.S. Case No. 466/2020 against the petitioner under Sections 279/304(A) of the IPC and the charge-sheet submitted is hereby set aside and quashed.
10. In terms of the above observation, this petition stands disposed of.

JUDGE

Comparing Assistant