

GAHC010262412023



2026:GAU-AS:587

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

Case No. : Crl.Pet./1232/2023

IKBAL HUSSAIN BARBHUIYA
S/O ATABUR RAHMAN BARBHUIYA
R/O BERENGA PART-II
P.O. BEREANGA, P.S. SILCHAR
DIST. CACHAR, ASSAM
PRESENTLY WORKING AT REGIMENT NO. 95956, ASSAM RIFLES,
TAMENGLONG, MANIPUR, C/O 99 APO, PIN-932044

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2: YESMINA BEGUM
D/O ABDUL HANNAN RAJBARBHUIYA
R/O SATGAON MASJID PATH
HOUSE NO. 99
P.S. SATGAON GUWAHATI
DIST. KAMRUP (M) ASSAM PIN-781021

Advocate for the Petitioner : MR. R MAJUMDAR, MR. JUNM LASKAR, MS. J GHOSH

Advocate for the Respondent : PP, ASSAM, MS. U NANDA (R-2)

BEFORE
HON'BLE MR. JUSTICE RAJESH MAZUMDAR
ORDER

20.01.2026

Heard Mr JUNM Laskar, learned counsel appearing for the petitioner. Also heard

Mr B Sarma, learned Additional Public Prosecutor for the State of Assam.

2. By the order dated 23.11.2023, this Court had recorded as follows:-

“Heard Mr. JUNM Laskar, learned counsel for the petitioner. Also heard Ms. S. H. Bora, learned Additional Public Prosecutor for the State respondent.

This application under section 482 of the Code of Criminal Procedure, 1973, has been filed by the petitioner, namely, Ikbal Hussain Barbhuiya praying for quashing of the charge-sheet No. 03/2021 dated 30.01.2021. On the basis of which PRC Case No. 2396/2021 was registered and same is pending in the Court of learned Additional Chief Judicial Magistrate, Kamrup.

Learned counsel for the petitioner has submitted that respondent no.2 was the wife of the present petitioner, however, matrimonial dispute occurred between them and thereafter, they separated with each other. When the matrimonial dispute occurred between the petitioner and respondent no. 2, the respondent no.2 lodged an FIR on 11.11.2020 against the present petitioner alleging therein that the respondent no.2 was subjected to cruelty by the present petitioner and on the basis of the said FIR, Satgaon P. S. Case No. 185/2020 under section 498A/506 of the IPC was registered.

However, thereafter, both the parties arrived at an amicable settlement amongst each other and to that effect a deed of agreement was also entered into between them on 20.01.2022 and in pursuant to the said deed of agreement the petitioner has also paid an one time settlement of Rs.7,50,000/- to the respondent no. 2.

However, in the meanwhile, the investigation in the FIR which was lodged by the respondent no.2 prior to arriving at settlement between the present petitioner continued and ultimately the charge-sheet was laid against the present petitioner under section 498A/506.

Learned counsel for the petitioner has submitted that as the dispute between the petitioner and respondent no. 2 who was erstwhile wife of the present petitioner has already been amicably settled. It would be futile to pursue the criminal prosecution which ensued on the basis of the FIR which was filed by the respondent no. 2 prior to their reaching settlement in between each other.

Learned counsel for the petitioner submits that it would be abuse of the process of the Court to continue with the criminal prosecution after a settlement have been reached between

the parties in a matrimonial dispute.”

3. Today, when the matter is taken up, our attention is drawn to the affidavit filed by the respondent No. 2, where at Paragraph-3, the following has been stated:-

“3. That the deponent begs to state that, at this juncture, as the matter has already been settled before the deponent/Opposite Party No. 2 and the petitioner, as such, the deponent has no objection if this Hon’ble Court is pleased enough to quash the FIR, Charge Sheet No. 03/2021 dated 30.01.2021 and the proceedings of PRC No. 2396/2021 in connection with Satgaon PS Case No. 185/2020, corresponding to GR No. 13802/2020, under Section 498(A)/506 IPC, read with Sections 3/4 of the Dowry Act, pending in the Additional Chief Judicial Magistrate, Kamrup (Metro), Guwahati, in the interest of justice.”

4. The learned counsel for the petitioner has drawn our attention to the Judgment of Hon'ble Supreme Court in the ***State of Haryana Vs. Bhajan Lal*** reported in **AIR 1992 SC 604**, wherein at Paragraph-102, the Judgment has laid down as follows:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but

constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

5. Having heard the learned counsel for the parties and the learned A.P.P., this Court is of the opinion that the ratio laid down in ***Bhajan Lal's case*** is applicable to the present case. The informant/respondent No. 2 has stated that all disputes are settled. There is little or no possibility of conviction of the accused petitioner in the pending criminal proceeding. Allowing the criminal proceeding to continue would only result in prolongation of the judicial process.

6. In the view of this Court, this is a fit case for exercising the powers under Section 482 of the Code of Criminal Procedure, 1973 (erstwhile). The criminal petition is accordingly allowed.

7. The proceedings of the Court of learned Additional Chief Judicial Magistrate, Kamrup (Metro), in PRC Case No. 2396/2021, arising out of Satgaon PS Case No. 185/2020, corresponding to GR No. 13802/2020, under Sections 498(A)/506 IPC, read with Sections 3/4 of the Dowry Act, against the petitioner is hereby set aside and quashed.

8. The criminal petition is disposed of.

JUDGE

Comparing Assistant