

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

S.B.: HON'BLE MR. JUSTICE VIJAI KUMAR BIST, CHIEF JUSTICE.

Crl. M.C. No. 03 of 2019

1. Mr. Pintso Tashi Bhutia,
S/o Kaching Bhutia,
R/o Kabi,
North Sikkim.
... Petitioner

-versus-

1. State of Sikkim,
Through the Ld. Public Prosecutor,
High Court of Sikkim.

2. Mr. Thinlay Yezer Bhutia @ Ship Sangay,
S/o Rinzing Ongay Bhutia,
R/o Phensong,
North Sikkim.
... Respondents

Appearance:

Mr. Zangpo Sherpa, Advocate for the Petitioner.

Mr. Thupden Youngda, Additional Public Prosecutor and
Ms Pollin Rai, Assistant Public Prosecutor, for Respondent
No. 1.

Ms Mon Maya Subba, Advocate for the Respondent No. 2.

ORDER

Chief Justice

Present petition has been filed by the petitioner for quashing FIR No. 02 of 2018 dated 07.04.2018, registered at Phodong Police Station, North Sikkim, Mangan, under section 324 of the Indian

Penal Code, 1860 (for short 'the IPC'). Further prayer has been made for quashing the proceedings pending disposal before the learned Chief Judicial Magistrate, North Sikkim at Mangan, titled *State vs. Pintso Tashi Bhutia*, in G.R. Case No. 22 of 2018.

2. Brief facts of the case is that a First Information Report (for short 'FIR') was lodged by the respondent no.2 on 07.04.2018 against the petitioner at Phodong Police Station, North Sikkim, Mangan, wherein he stated that the petitioner injured his eye with a beer bottle and after that the respondent no.2 also hit him back. FIR was registered as P.S. Case No. 02 of 2018 under section 324 of the IPC. The respondent no.2 was medically examined by a Doctor of STNM Hospital, Gangtok. The Doctor in his report stated that no grievous injury was sustained but only a simple one. The matter was investigated by the Investigating Officer. Further, final report was submitted by the Investigating Officer before the Court of the learned Judicial Magistrate, North Sikkim, Mangan. Learned Chief Judicial Magistrate took cognizance and registered it as G.R. Case No. 22 of 2018 (*State vs. Tashi Pintso Bhutia*).

3. Along with the petition, a Compromise Agreement dated 26.11.2018, has also been filed which is signed by the petitioner as well as the respondent no.2. In the Compromise Agreement, it is stated that the incident took place when both the parties were heavily drunk. It is stated that both the parties have realized their own individual fault and since they are close relatives (brothers), they have decided to live

peacefully along with their family members. Parties have agreed that the FIR as well as the proceedings be quashed.

4. The parties have also filed an application under section 320 of the Code of Criminal Procedure, 1973, being I.A. No. 1 of 2019, stating the same facts in their application and requested that the offence be compounded and proceedings and the FIR be quashed .

5. The petitioner as well as the respondent no.2 are present in the Court and they have been identified by their respective counsel. They appeared before me and stated that they have compromised and they want to settle the matter finally and want to lead a peaceful life.

6. Learned counsel for the State-respondent stated that the matter can be compounded.

7. In view of the principle laid down by the Hon'ble Supreme Court in ***Gyan Singh vs. State of Rajasthan*** reported in ***(2012) 10 SCC 303***, FIR as well as the criminal proceedings can be quashed by a Court, if the Court considers that the matter has been settled by the parties amicably and the parties are interested to restore peace and harmony.

8. Having considered the submissions of learned counsel for the parties and after going through the entire documents, I am satisfied that the matter has been settled between the parties. Therefore, the criminal miscellaneous case deserves to be allowed.

9. Accordingly, the Crl. Misc. Case No. 03 of 2019 is allowed.

10. FIR No. 02 of 2018 registered before the Phodong Police Station, North Sikkim, Mangan, stands quashed. Consequently, proceedings of G.R. Case No. 22 of 2018 pending disposal before the Court of the learned Sessions Judge, North Sikkim at Mangan, are also quashed.

11. Compounding Application also stands disposed of.

12. A copy of this Order be sent to the learned Chief Judicial Magistrate, North Sikkim at Mangan, forthwith.

13. Certified copies be made available to the parties as per Rules.

Chief Justice

15.04.2019

Approved for reporting : No
Internet : No

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