



Serial No.02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Petn. No.39 of 2024

Date of Order: 01.07.2024

1.Shri. Tenzin Tsephel
S/o- Shri Lobsong Tharchin
R/o-Upper Mawprem,
East Khasi Hills District,
Shillong, Pin-793001,
Meghalaya.

2. Shri. Jigme Sonam
S/o-Shri. Lobsang Choegor.
R/o-Jhalupara, East Khasi Hills
District, Pin-793001,
Meghalaya.

::::ACCUSED/PETITIONERS.

Vs. 1.The State of Meghalaya,
represented by the Superintendent
of Police, East Khasi Hills District,
Meghalaya.

2.The Officer-In-Charge, Rynjah
Police Station, East Khasi Hills
District,
Shillong – 793006, Meghalaya.

3.The Investigating Officer,
Rynjah Police Station, East Khasi
Hills District, Shillong - 793006,
Meghalaya.

4. Miss. X (Complainant/Victim)
D/o- (L) M.D. Sangma,
Presently residing at:Matchakolgre
Dolampong, P.S. Araimile,
West Garo Hills,
Pin-794001, Meghalaya.

::::RESPONDENTS

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. N. Syngkon, Adv.



For the Respondent(s) : Mr. N.D. Chullai, AAG with
Mr. E. R. Chyne, GA.

ORAL:-

Heard Mr. N. Syngkon, learned Counsel appearing for the petitioner and also Mr. N.D. Chullai, learned AAG assisted by Mr. E. R. Chyne, learned GA appearing for the State-respondent.

This is an application under Section 482 Cr.PC filed by the petitioners seeking quashing of FIR dated 13-10-2020 filed before the Officer-in-Charge, Rynjah Police Station in Rynjah P.S Case No. 124(10) of 2020 under Section 376D/34 and the proceeding of Sessions Case No. 26 (T) 2023 initiated on the basis of the said FIR.

Mr. N. Syngkon, learned Counsel for the petitioner draws attention of this Court to a letter dated 18-07-2022 purportedly written by the survivor in the above case addressed to the Rynjah Police Station, Shillong wherein it was stated by her that considering all the aspects of the matter and, more particularly since both the arrested persons are very young, out of her forgiveness, she did not want to proceed any further against them in connection with the aforesaid case. The learned Counsel contends that the said letter undoubtedly proves the presence of consent of the survivor in the incident basing on which the criminal proceeding has been initiated against the petitioners. He further submits that since the survivor is a major, presence of her consent in the matter would definitely negate the charges made against the petitioners and hence this is a fit case for this Court to invoke inherent jurisdiction under Section 482 Cr.PC to quash the FIR as well as the proceeding initiated against the petitioners.



Per contra, Mr. N. D. Chullai, learned AAG vehemently opposes the submission made on behalf of the petitioners and submits that it is not a fit case for issuance of notice. According to him, even if the version of the case projected by the petitioners are accepted, no case would be made out for interference by this Court under Section 482 Cr.PC at this stage. The learned AAG submits that the contents of the letter dated 18-07-2022 basing on which this criminal application has been filed, also does not make out a case of consent. The learned AAG refers to a decision of the Apex Court reported in (2012) 10 SCC 303, *Gian Singh Vs. State of Punjab and Anr.* and submits that serious offence like murder, rape, dacoity etc. or other offence of mental depravity for offence of moral turpitude under the special statute, the allegation made cannot be withdrawn. He, therefore, submits that the petition is devoid of merit and deserves to be dismissed *in limine*.

A perusal of the materials on record reveals that the FIR dated 13-10-2020 was lodged before the Rynjah Police Station by the survivor alleging the commission of offence under Section 376D/34 IPC against the petitioners herein. Upon completion of the investigation, a charge-sheet dated 24-02-2021 was filed in the matter. Consequently, the petitioners are put to face trial in the Session Case No. 26 (T) 2023 under Section 376D/34 IPC pending before the Addl. Deputy Commission (Judicial), East Khasi Hills District, Shillong. Apparently, the trial is at early stage and the evidence of the prosecution is yet to be concluded in the matter. The petitioners also could not say as to whether the survivor has been examined by the Trial Court or not. The letter dated 18-07-2022, basing on which the petitioners have sought quashing of the proceeding, indicates that the survivor conveyed her forgiveness to the petitioners and desired not to proceed any further in the matter. Whether the text of the said letter can be interpreted as presence of consent or not



requires to be decided by the Trial Court on the basis of the evidence adduced during the course of the trial. Even if it is assumed at this juncture that the survivor has forgiven the petitioners, there is nothing in law which can result in quashing of the proceeding on the basis of such forgiveness. The proposition of law laid down in the case of Gyan Singh (supra) relied on by the learned AAG, can be interpreted to say that serious offences including rape cannot be settled or withdrawn on the basis of forgiveness granted by the survivor or on the basis of any understanding arrived at between the parties. In such a situation, the petition filed by the petitioners has no merit. The issuance of notice to the respondent No.4, the survivor, and her participation in the present matter would not lend any support to the case of the petitioners.

It is made clear that this Court has not gone into the merits of the contention of the petitioners as to the question of presence of consent in the matter. The petitioners will have the liberty to raise the question of consent during the course of the trial before the Trial Court.

In view of the above, this petition has no merit and stands dismissed.

Judge

Meghalaya
01.07.2024
"Biswarup PS"