

**(2023) 01 GAU CK 0024**  
**In the Gauhati High Court**  
**Case No : Criminal Petition No.1208 Of 2022**

Gauranga Pratim Bora

APPELLANT

Vs

State Of Assam And Anr

RESPONDENT

**Date of Decision :** 19-01-2023

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 320, 482  
Information Technology Act, 2000 — Section 66D, 67A

**Citation :** (2023) 01 GAU CK 0024

**Hon'ble Judges :** Robin Phukan, J

**Bench :** Single Bench

**Advocate :** A M Baruah

## Judgement

1. Heard Mr. A.M. Baruah; learned counsel for the petitioner, and also heard Ms. S.H. Borah, learned Additional P.P. for the State respondent No.1 and Mr. Achitya Awasthi, learned counsel for the respondent No.2.

2. This application, under Section 482 of the Code of Criminal Procedure, is preferred by the petitioner, namely, Gauranga Pratim Bora, for quashing the criminal proceeding, arising out of FIR No. 180 of 2022 of Geetanagar P.S., under section 66D/67A Information Technology Act.

3. The factual background, leading to filing of the present petition, is briefly stated as under:-

"The respondent No.2, Smti. 'X' (name withheld), lodged an FIR with the Officer-in-Charge, Geetanagar P.S. to the effect that she was in intimate relationship with Gauranga Borah of Jorhat almost for a year and during such relationship they communicated each other through video call, audio call and whatsapp message and she even sent her nude photograph and video to his whatsapp number No. 6900963980. Then about six months back Gauranga has opened one instagram account in her name and uploaded her nude photograph and video and also uploaded the same in the porn website, in her name. Thereafter,

Gauranga has sent screen shot of the said account and website to her whatsapp and keep her blackmailing. Upon the said FIR, the O/C Geetanagar P.S. has registered a case, No. 180 of 2022, under section 66D/67A Information Technology Act and started investigation. During investigation, the investigating officer has arrested the petitioner and forwarded him to jail hazoot. Thereafter the petitioner was enlarged on bail by this court. In the meantime, both the parties have settled the dispute amicably and executed a 'Deed of Compromise' on 26/09/2022, which is annexed with the petition as Annexure-2, and on the strength of the same, the petitioner approached this court by filing the present petition to quash the criminal proceeding arising out of Geetanagar P.S. case, No. 180 of 2022, under section 66D/67A Information Technology Act."

4. Mr. A.M. Baruah, the learned counsel for the petitioner submits that the petitioner has effected a compromise with the respondent No.2 and they have decided not to proceed with the matter further and they have executed a 'Deed of Compromise' on 26/09/2022, which is being annexed with the petition as Annexure-2. Mr. Baruah therefore, contended to allow this petition and to quash the criminal proceeding arising out of Geetanagar P.S. case, No. 180 of 2022.

5. On the other hand, Mr. Achitya Awasthi, learned counsel appearing for the respondent No.2, also submits that the parties have effected a compromise and he confirmed that the petitioner and respondent No. 2 has executed a 'Deed of Compromise' (Annexure-2), and as such the respondent No.2 has no objection in the event of allowing this petition. In the same line, the learned Additional P.P. for the State respondent also submits that since the matter has been amicably settled between the parties, the state has no objection in the event of allowing the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record.

7. A cursory perusal of the 'Deed of Compromise' (Annexure-2) enclosed the petition, reveals that the matter has been settled by the parties amicably. It also appears that the respondent No.2 also has no objection in the event of quashing the criminal proceeding arising out of Geetanagar P.S. case, No. 180 of 2022, under section 66D/67A, Information Technology Act.

8. It is to be noted here that while dealing with the issue of quashing of FIR and subsequent criminal proceeding, Hon'ble Supreme Court in the case of State of Madhya Pradesh Vs Laxmi Narayan & Ors., reported in (2019) 5 SCC 680, referring to its two earlier decisions in Gian Singh Vs State of Punjab, reported in (2012) 10 SCC 303 and Narinder Singh Vs. State of Punjab (2014) 6 SCC 466, in paragraph No. 13, held as under:-

"13. (i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out

of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

9. In the case of Narinder Singh (Supra), Hon'ble Supreme Court has held that:-

"When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives."

10. Here in this case, it appears that the dispute between the parties has arisen out of a relationship and the same appears to be private in nature, which the parties have resolved amongst themselves. The petitioner and the respondent No.2 have also executed one 'Deed of Compromise' - Annexure-2. Under these circumstances, this court is of the view that allowing the petition by quashing the criminal proceeding arising out of Geetanagar P.S. case, No. 180 of 2022, under section 66D/67A of Information Technology Act would advance the cause of justice. In that view of the matter, if the proceeding is allowed to continue before the learned Court below, it would be an abuse of the process of the Court and it would cause undue hardship to the parties.

11. Under the facts and circumstances discussed hereinabove, this Court is of the considered opinion that this is a fit case where the extra-ordinary power under Section 482 Cr.P.C. can be invoked to quash the criminal proceeding arising out of Geetanagar P.S. case, No. 180 of 2022, under section 66D/67A of Information Technology Act.

12. Accordingly, the criminal proceeding, arising out of Geetanagar P.S. case, No. 180 of 2022, under section 66D/67A of Information Technology Act, stands set aside and quashed. The parties have to bear their own costs.