

(2022) 01 GAU CK 0008
In the Gauhati High Court
Case No : Criminal Petition No. 755 Of 2021

Nilima Haque And Anr

APPELLANT

Vs

State Of Assam

RESPONDENT

Date of Decision : 04-01-2022

Acts Referred:

Indian Penal Code, 1860 — Section 494, 498A, 506
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2022) 01 GAU CK 0008

Hon'ble Judges : Rumi Kumari Phukan, J

Bench : Single Bench

Advocate : N Ahmed

Final Decision : Allowed

Judgement

Heard Mr. N. Ahmed, learned counsel appearing for the petitioner. Also heard Mr. M.P. Goswami, learned Addl. P.P., Assam appearing for the

State respondent.

The petitioner No.1 Nilima Haque lodged an FIR against her husband Dulal Ali, which was registered as the All Women P.S. Case No.82/2019,

which ended with filing of the charge sheet under Sections 498(A)/494/506 of the IPC.

The case is now pending for adjudication before the Court of learned Judicial Magistrate 1st Class, Kamrup (M) at Guwahati, pertaining to PRC Case

No.3004/2019. While the case was at the appearance stage and notice was issued to the parties for appearance, both the informant and the accused

have jointly filed the present petition under Section 482 CrPC, for quashing of the aforesaid proceeding before the Court on the ground that the dispute

had amicably settled between the parties and they intend to resume their

conjugal life.

In support of the petition, they have also filed an affidavit, sworn by both the parties dated 29.12.2021, disclosing that they intend to re-start their

conjugal life and the matter has been amicably settled. The husband of the petitioner has also given the assurance that he will not torture his wife

either mentally or physically and shall maintain a good relation.

I have considered the submission of learned counsel for both the parties and perused the documents annexed.

The charge sheet was filed under Sections 498(A)/494/506 of the IPC and obviously the matter relates to matrimonial dispute. Both the parties have

already amicably settled the matter, which is revealed from the affidavit sworn before this Court.

It is also noted that both the parties have now jointly filed the present quashing petition, intending to restart their conjugal life. The matter being purely

private in nature, which is a matrimonial dispute, such a settlement can be considered and allowed even though the offences are not compoundable.

In *Gian Singh vs. State of Punjab*, reported in (2012) 10 SCC 303, followed in *Narinder Singh and others vs. State of Punjab and another*, reported in

(2014) 6 SCC 466, it has been held that compromise in the matter of matrimonial dispute can be allowed as it does not involve any public or social

aspect and it has been specifically held that except the offences, which involve moral turpitude and personal in nature can be compromised and after

compromising the matter between the parties, it will be abuse of the process of Court, if such criminal proceeding is allowed to continue.

In the present case, as it has been found that both the parties filed cases against each other in the year 2019 and now after filing of the charge sheet,

they have amicably settled the matter and intend to re-start their conjugal life, the continuance of the criminal proceeding will hamper the interest of

both the parties, in continuing their smooth marital life.

Taking note of all above, this Court is of the opinion that the prayer made in this petition can be allowed, by invoking the provision of Section 482 of the

CrPC, to ensure justice between the parties.

Accordingly the petition is allowed and the proceeding pertaining to PRC Case No.3004/2019, pending before the learned Judicial Magistrate 1st

Class, Kamrup (M) at Guwahati, is hereby quashed and set aside.