

**IN THE GAUHATI HIGH COURT  
(THE HIGH COURT OF ASSAM; NAGALAND; MIZORAM AND ARUNACHAL  
PRADESH)**

**Crl. Rev. P. 06 (AP) 2017**

**Smt. Toko Jelly,**

W/o Shri Toko Joseph aged about 36 years,  
resident of Itanagar B- Sector,  
PO/PS Itanagar,  
District Papum Pare,  
Arunachal Pradesh

.....petitioner.

**By Advocate:** Mr.T. Poto,  
Mr. R. Konya,  
Mr. M. Bagra,  
Mr. K. Rimi,  
Mr. L. Loya,

**-VERSUS-**

**1. The State of Arunachal Pradesh,**  
Represented by the Public Prosecutor.

2. Shri Toko Joseph,  
S/o Late Toko Jerjo, aged about 38 PTC,  
Banderdewa, PO/PS Banderdewa,  
District: papum Pare, A.P.

..... Respondents.

**By Advocate:** M. Tang, learned Addl. Public Prosecutor,  
Mr. T. Nagu,  
Mr. T. Uli,  
Mr. H. Lampu,  
Mr. K. Posi,  
Mr. Y. Yahi,

**:::BEFORE:::  
HON'BLE MR. JUSTICE AJIT BORTHAKUR**

For the petitioner : None appeared.

For the respondent : Ms. M. Tang, learned Addl. P. P.  
Mr. H. Lampu, respondent No. 2.

Date of hearing : **07.11.2017.**

Date of judgment : **07.11.2017.**

**JUDGMENT & ORDER (ORAL)**

This application under Section 397(1)/482 CrPC, has been preferred against the impugned order, dated 22.06.2016, passed by the learned Judicial Magistrate, First Class, Yupia, Papum Pare District, Arunachal Pradesh, passed in GR Case No.884/2015 (corresponding to Itanagar Women P.S. Case No.135/2015), under Sections 498A/323/506 IPC, whereby the respondent No. 2, namely, Toko Joseph, has been discharged of the charge-sheeted charges holding insufficient incriminating *prima facie* evidence to frame charges against him.

2. None appeared for the petitioner on consecutive dates including today.
3. Heard Ms. M. Tang, learned Additional Public Prosecutor, appearing on behalf of the State respondent No. 1 and Mr. H. Lampu, learned counsel appearing for the respondent No. 2.
4. Mr. Lampu, learned counsel appearing for the respondent No. 2 has produced a maintenance agreement, dated 20.06.2017, entered into between the petitioner Ms. Toko Jelly and the respondent No. 2 and submitted that the

petitioner is perhaps, not interested to proceed with the instant revision petition, in view of the compromise reached between them.

5. Ms. M. Tang, learned Additional Public Prosecutor submits that the deed of maintenance agreement produced by the learned counsel for the respondent No. 2 is genuine one and for that reason of compromise reached between the parties, the petitioner may not have interest to pursue the instant revision petition for which none represented the petitioner for a long period after the aforesaid agreement was signed.

6. On perusal of the relevant case record and the impugned order, dated 22.06.2016, passed by the learned Magistrate, it is noticed that the following grounds were assigned for discharge of the respondent No. 2 of the charges-

***"Perusal of the charge sheet reveals that the available materials are not sufficient to establish a prima facie case U/S 498(A)/323 of IPC against the accused person. Further perusal of Charge sheet reveals that the victim herself has not corroborated the incident of 29.12.2015 in her statement recorded U/S 161 of CrPC, based on which the instant case was registered U/S 498(A)/323 IPC. Further the statement of the witnesses recorded U/S 161 of CrPC though corroborated the incident of 1998 and 2012 but failed to corroborate the incident of cruelty as being continued till date. Since cruelty being a continuing offence and on each occasion will give rise to a new starting point of limitation. It is further noted that the MLC report submitted by the I/O of the case do not bear any date from the side of the Heema Hospital. Therefore, the materials available with the record are not sufficient to prima facie establish the offence U/S 498(A)/323 IPC."***

**7.** The above relevant part of the impugned order reveals that the learned Magistrate upon consideration of the materials placed before him and hearing, formed the opinion that there is no ground for presuming that the accused respondent No. 2 had committed any offence as charge sheeted and as such, discharged the accused respondent No. 2 herein of the charges. The family discontentment appears to have been amicably settled between the parties by executing the aforesaid maintenance agreement, a copy of which is made available to this Court by the learned counsel for the respondent No. 2, which is taken on record.

**8.** Having regard to the above, grounds of discharge, this Court is of the opinion that no illegality has been committed by the learned Magistrate while passing the impugned order, which requires interference in revision and therefore, the revision stands dismissed.

Send back the LCRs along with a copy of this order.

**JUDGE**

Cha Gang