

# THE HIGH COURT OF MEGHALAYA

## CRL.PETN. NO. 1/2016

1. Smti. Agnes Kharsiing,  
D/o (L) M.N.Majaw,  
R/o Behind St. Mary's Convent,  
Laitumkhrah, Shillong – 3,  
East Khasi Hills District, Meghalaya.

... **Petitioner**

**-Versus-**

1. The State of Meghalaya,  
Through the Superintendent of Police,  
West Khasi Hills District, Meghalaya.
2. The Officer in-charge,  
Mairang Police Station,  
West Khasi Hills District, Meghalaya.
3. Shri. J.Marbaniang, S.I  
C/o Superintendent of Police,  
West Khasi Hills District, Meghalaya.
4. Shri. M.Jyrwa, P/SI  
Investigating Officer,  
Mairang Police Station,  
West Khasi Hills District, Meghalaya.

.....**Respondents**

**BEFORE  
THE HON'BLE MR JUSTICE S.R.SEN**

For the petitioner : Mr. N.Syngkon, Adv.

For the respondents : Mr. S. Sen Gupta, GA

Date of hearing : 29-03-2016

Date of Judgment : 29-03-2016

**JUDGMENT AND ORDER (ORAL)**

The petitioner's case in a nutshell is "that the petitioner was informed that one lady by the name of Smti. Aihunlin Wahlang was molested by a man namely Shri. Thiwanstar Mawlong who happens to be a distant relative of the lady.

That the petitioner on receiving the information has approached before the SDO (Civil) Mairang, West Khasi Hills District, Meghalaya on 20.11.2013 and the said SDO (Civil) Mairang has advised the petitioner to inform the lady to file an F.I.R.

That the petitioner states that on the same day i.e. on 20.11.2013, she met the lady by the name of Smti. Aihunlin Wahlang and advised her to file an F.I.R.

That the petitioner further states that an F.I.R was roughly drafted and the same was written down fairly by her husband in the local language i.e., khasi and was submitted before the Mairang Police Station.

That the petitioner states that soon after filing of the F.I.R there were tremendous efforts to compromise the same in the police station and the same is evident from the fact that F.I.R dated 20.11.2013 was forwarded to the court only on 22.11.2013 in violation of the provision of Section 157 CrPC.

That the petitioner further states that a compromise letter was signed on 23.11.2013 between Smti. Aihunlin Wahlang and

Shri. Thiwanstar Mawlong and was handed over to the police on the same day i.e. 23.11.2013.

That the petitioner states that with intention to protect the accused person there was no arrest made by the police in spite of the fact that the accused person was very much present at the police station on 23.11.2013, rather went to the extent of saying that the accused person namely Shri. Thiwanstar Mawlong could not be found at home.

That the petitioner states that on being realized by the police that the case cannot be compromised in the police station, the accused person was arrested by the police on 26.11.2013 and case was registered as Mairang P.S. Case No. 27(11)2013, U/s-354/506 IPC and was forwarded to the court with forwarding report dated 26<sup>th</sup> November, 2013 along with the compromise letter dated 23.11.2013 enclosed therewith.

That the petitioner states that the officer-in-charge has also prayed before the court on the same day i.e. 26<sup>th</sup> November, 2013 for recording of confessional statement of the victim U/s-164 Cr.P.C.

That the petitioner states that the statement of Smti. Aihunlin Wahlang was recorded on 27<sup>th</sup> November, 2013 without observing the procedure laid down under Section 164 Cr.P.C and further the statement recorded prima-facie shows that the exact version of the victim was not recorded for whatever reason best known to the concerned magistrate and the victim Smti. Aihunlin Wahlang without understanding the contents of the recorded statement had put her signature on the statement.

That the petitioner with outmost surprise and shock would like to state herein that on 28.11.2013 the I.O had filed F.R. 12/2013 discharging the accused Shri. Thiwanstar Mawlong from the case which was registered as Mairang P.S. Case No. 27(11) 2013, U/s-354/506 I.P.C.

That the petitioner states herein that the police had acted promptly and sidewise in order to protect the accused person from the Mairang P.S. Case No. 27(11)2013 and further to conceal the mistake committed by them have gone to the extent of victimizing furthermore the victim (Smti. Aihunlin Wahlang) by making an accused in a false case along with the present petitioner.

That on 28.7.2014 an order was passed to issue notice to the complainant to show cause as to why the F.R should not be accepted.

That on 10.7.2015 the complainant had filed the Show Cause and wherein she had clearly mentioned that the case is not a false case, it actually happened but due to the intervention of the family, she had compromised the case may be because the accused is distantly related to the complainant.

That the petitioner with utmost surprise and shock would like to state herein that the Sub-Divisional Magistrate, Mairang Court, Shri. Arunkumar Khembhavi, IAS vide order dated 2<sup>nd</sup> December, 2013 had directed the I/O to lodge F.I.R on both Smti. Aihunlin Wahlang and Smti. Agnes Kharshiing, under section 182 and 203 IPC.

That the petitioner states that as per the direction of the order dated 2<sup>nd</sup> December, 2013 an F.I.R was filed against the

Complainant of the Mairang P.S. Case No. 27(11) 2013 i.e. Smti. Aihunlin Wahlang and Smti. Agnes Kharshiing by the I/O of the case and was registered as Mairang P.S. Case No. 32(12) 2013, U/s 182 and 203 IPC.

That the petitioner states herein that after the F.I.R is filed against her and the complainant of the Mairang P.S. Case No. 27(11) 2013, the complainant Smti. Aihunlin Wahlang was called upon by the police to record statement on the F.I.R filed against her and to which she had given her statement on 6.1.2014 which clearly shows that the incident alleged in the F.I.R filed by Smti. Aihunlin Wahlang, actually took place.

That the petitioner states that the F.I.R filed against the petitioner which was registered as Mairang P.S. Case No. 32(12)2013 U/s- 182, 203 IPC was subsequently charge sheeted U/s- 182, 203 IPC and both the petitioner and the complainant was made accused in that instant case.

That the petitioner states that argument was placed before the trial court of Shri. D.S.Marbaniang, Judicial Magistrate First Class, Mairang Court to drop the case against the petitioner as there is no prima facie case which has been made out against the petitioner but the learned Court below rejecting the prayer of the petitioner has framed the charges against the petitioner vide order dated 10.7.2015.

That the petitioner states that there is no prima facie case which has been made out against her and the said F.I.R filed against her and the complainant Smti Aihunlin Wahlang is the result of arbitrary exercise of judicial power in order to harass the

petitioner and the complainant for reason unknown to the petitioner.

That the petitioner states that she had not done anything except to give advice and help the complainant Smti. Aihunlin Wahlang to file the F.I.R on bonafide belief.

That the petitioner therefore prays that the F.I.R dated 2.12.2013, charge sheet No. 2 of 2014 and order dated 10.7.2015 passed by the Court of the Judicial Magistrate First Class, West Khasi Hills District, framing the charge against the petitioner may kindly be quashed and set aside and further be pleased to close the Mairang P.S. Case No. 32(12) 2013.”

Heard Mr. N.Syngkon, learned counsel on behalf of the petitioner and also Mr. S.Sen Gupta, learned State counsel on behalf of the respondents.

Learned counsel for the petitioner submits that the instant petition has been filed under Section 482 Cr.P.C with a prayer to quash the F.I.R. dated 2.12.2013 on the ground that the investigating agency could not find out sufficient materials. On a question put up by this Court, he submits that the matter has already been charge-sheeted and charge has been framed.

Thus in my view, when charge has already been framed, the instant petition under Section 482 Cr.P.C does not survive. The remedy available to the petitioner is to make a petition for revision against the framing of charge before the learned District and Sessions Judge.

For the reasons discussed above, the instant petition stands dismissed and disposed of.

Registry is directed to send back the lower court record immediately with a copy of this order.

**JUDGE**

S.Rynjah