

THE HIGH COURT OF MEGHALAYA

TR.P.(CRL). No. 1/2016

Shri Jikham Syrti,
Son of Smti Sbait Syrti,
Resident of Jalaphet, Bri-Sumer Village,
East Jaintia Hills District, Meghalaya

... Petitioner

-Versus-

1. State of Meghalaya
Represented by the Chief Secretary,
Government of Meghalaya,
Shillong.
2. Shri. Teibor Pala,
Son of Smti. Violet Pala,
Resident of Sutnga Pohshnong Village,
East Jaintia Hills District, Meghalaya.
3. Shri. Shining Langstang,
Son of Smti. Sngew Langstang,
Resident of Sutnga Pohshnong Village,
East Jaintia Hills District, Meghalaya.
4. Shri. Ioomonmi Langstang,
Son of Smti Bimas Langstang
Resident of Sutnga Pohskur Village,
East Jaintia Hills District, Meghalaya.
5. Shri. Kyrkhu Langstang,
Son of Smti Pala Langstang,
Resident of Sutnga Pohskur Village,
East Jaintia Hills District, Meghalaya.
6. Shri Sumarbiang Bareh,
Son of (L) Ke Bareh,
Resident of Sutnga Pohshnong Village,
East Jaintia Hills District, Meghalaya.

....Respondents

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

For the petitioner : Mr. E.Nongbri, Adv.

For the respondents : Mr. N.D.Chullai, Sr. GA.
Ms. S.Bhattacharjee, GA.
Ms. S.Pandit, Adv.

Date of hearing : 29.06.2016

Date of Judgment : 29 .06.2016

JUDGMENT AND ORDER (ORAL)

Heard Mr. E.Nongbri, learned counsel for the petitioner as well as Mr. N.D.Chullai, learned Sr. GA, assisted by Ms. S.Bhattacharjee, GA.

2. Brief facts of the case in a nutshell is that:

“The factual matrix of the case is that on 22.11.2013 at around 2 Pm, one (Since deceased and the then Headman of Jalaphet Village, Bri-Sumer and hereinafter referred to as the Victim for brevity) and one of his friends viz. Shri Braceman Gympad were proceeding from Sutnga side towards Khliehriat in his car and on reaching Moopala Village, a Gypsy came from behind dashed and blocked the car of the Shri Ken Syrti. Subsequently, 5 (five) unknown persons emerged out of the Gypsy armed with daos and weapons and attacked the Victim without any reason whatsoever. As a result, the Victim was badly injured and was taken to Woodland Hospital, Shillong for treatment.

Immediately, the Petitioner being the nephew of the victim lodged an FIR before Officer-in_Charge, Khliehriat Police Station and a case was registered at the Khliehriat Police Station as Khliehriat P.S. Case No. 271 (11) 2013 under Section 307/241/326/34 IPC. But

sadly, on 27.11.2013 Shri Ken Syrti succumbed to his injuries at Woodland Hospital, Shillong.

It was on 11.03.2014 that the Respondents No. 2 to 6 (Accused Persons) got arrested and on the prayer made by the I/O they were then remanded to five (5) days Police Custody. Pursuant to this the I/O had made a prayer on 13.03.2014 before the learned Court of the Additional District Magistrate, Khliehriat for adding an additional section of 302 IPC in the said case and the same was allowed.

During the course of investigation; the Police seized several weapons which include two (2) numbers of Wooden Stick, one (1) local Dao with wooden handle rounded with silver colour coil from the 5 (five) Accused Persons. After the expiry of five days of police custody the Respondents were again remanded to 14 days of Judicial Custody vide Order dated 14.03.2014. The Case was then charged sheeted on the 25.03.2014 and registered as GR Case No. 305 of 2013. Thereafter, on 01.04.2014, bail was granted to the Respondents No. 2 to 6.

The humble Petitioner feels it is apt to bring to the attention of this Hon'ble Court of the fact that even though the Investigation Officer had sought for five days of Police Custody for the Respondents No. 2 to 6; yet surprisingly they were detained only for a period of 2 (two) days after which they were taken to judicial custody. What is more surprising is that there seems to be no prayer made by the Investigating Officer before the learned Court below for releasing the Respondents No. 2 to 6 from Police Custody and for remanding them to Judicial Custody.

After a long period of more than one year i.e. after the case had been charge sheeted the case was endorsed to the learned trial Court of the Additional Deputy Commissioner (Judicial), Khliehriat. However, on every date thereafter the Accused Persons/Respondents No. 2 to 6 have continually and repeatedly failed to appear together before the learned Trial Court and for which act the process of adjudication had been unduly stalled and delayed.

Moreover, due to the dual charge being bestowed upon the functionaries at times causes a huge burden and hurdle towards the adjudication and also dispensation of the

cases lying before them for the reason that on many occasions the case proceedings are inadvertently stalled, whenever the Officers have to go out of the Office to discharge their executive duties.

As such, the heinous and deplorable offence committed upon the victim not only violates and deprives the victim's family but rather is directed at the society as a whole as such it shakes the belief of the entire society and warrants a just, fair and exemplary justice so as to reinforce the faith in society on the law of the land. This undue delay in the final disposal of criminal cases tends, to some extent, to defeat the very purpose of criminal justice.

Hence, this instant petition praying for transfer of this instant case to the Court of the District and Sessions Judge, Jowai, which is a fully functional Court manned by a well trained Judicial Officer."

3. The instant petition is moved by Mr. E.Nongbri, learned counsel for the petitioner who submits that GR Case No. 305/2013 wherein charge sheet had been filed 2 (two) years back is still pending without any cognizance. The learned Court of ADM, Khliehriat has not framed the charge till date and as a result the accused persons are suffering and he prayed that for speedy disposal and fair trial the matter needs to be transferred to the Court of the District and Sessions Judge, Jowai. Mr. N.D.Chullai, learned Sr. GA as well as Mr. S.Pandit, learned counsel for the respondents No. 2 to 6 have no objection. The learned ADM, Khliehriat must take note that speedy trial of a case is the right of the accused and the Court should not sit over the trial for years.

4. Considering the submission advanced by the learned counsels for the parties, it is hereby ordered that GR Case No.

305/2013 be transferred to the Court of District and Sessions Judge, Jowai. Learned ADM, Khliehriat is directed to send the record within 2 (two) days from the date of receipt of the copy of this order.

5. Registry is directed to send the copy of this judgment and order to the ADM, Khliehriat immediately. I direct both the prosecution and the accused to be present in the Court of the District and Sessions Judge, Jowai and the Judge is directed to dispose of the matter expeditiously.

7. With this observation and direction, the petition is allowed and stands disposed of.

JUDGE

S.Rynjah