

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

Cril. Petn. No. 8 of 2013

Shri Ranaj Hazarika, aged about 46 years, S/o Late
Lakheswar Hazarika, Classic Apartment, Flat No. 6-C
Hatigoan – Hiujubari Main Road, PO & PS Dispur,
Guwahati, Dist. Kamrup (Urban)

.... *Petitioner/Applicant*

- Versus -

1. Viom Network Limited, Circle office at 3rd floor,
Surya Tower, Dr. B. Baruah Road, Ulubari,
Guwahati 781007, through its authorized
representative Mr. Prashant Mathur, S/o. Shri
Surendra Prakash Mathur, B-6 block 2, Green land
Apartment Dispur, Guwahati.
2. M/s. Moka Tower Power Systems P. Ltd., a
company incorporated under the Companies Act,
1956, having its registered office at Plot No. 63,
Indira Gandhi Nagar, Kayarambedu,
Guduvancherry, Chennai, Tamil Nadu 603302
represented by its Chairman Jai Krishna Sudharsan.

.... *Respondents*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR

30.01.2019

[1] Heard Mr. Ng. Somorjit, learned counsel appearing for the
petitioner and Mr. S. Samarjeet, learned CGC appearing for the
respondents.

[2] The criminal petition has been filed in the year 2013
challenging the Order dated 22.05.2013 passed by the Chief Judicial
Magistrate, Imphal West and the order reads as follows:

*"The Id. Counsel for the complainant present. Perused
the material records of complaint."*

Heard the Id. Counsel for the complainant at length. On perusal of the material records including the statement of the complainant on solemn oath U/S 200 Cr.P.C. it appears that there is prima facie material to proceed criminal proceedings against the accused persons No. 1,2 and 3.

Cognizance is taken for the offences under sections 193, 209,420, 406, 417 I.P.C. read with Section 34 of the same.

Issue summons to the accused persons accompany by copies of complaint returnable by 21/6/2013.

The complainant is to take steps in time.

Fix 21/6/2013 for appearance."

[3] According to the petitioner, he was working as an authorized agent in-charge. He was employed with the respondent No. 2 between 1.11.2012 to 28.02.2011. Respondent No. 1 is a Company having its office at Guwahati. Respondent No. 1 has filed a criminal case No. 127 of 2013 before the Chief Judicial Magistrate, Imphal West against the petitioner and in that complaint, the petitioner is an accused No. 3 and M/s. Moka Tower Power Systems Pvt. Ltd. respondent No. 2 herein, represented by Chairman, Jai Krishna Sundershan is Accused No. 2.

The allegation is that the petitioner has committed several offences while working with respondent No. 2, M/S Moka Tower Power Systems Pvt. Ltd., Chennai.

[4] According to the petitioner, no case has been made out to register the case in term of the Order dated 22.05.2013 passed in Criminal (C) Case No. 127 of 2013 for alleged offence under Section 193, 209, 420, 406, 417 read with Section 34 of I.P.C.

[5] The petitioner refers to the Civil suit between the Company at Guwahati and at Chennai.

[6] In para No. 11, the petitioner states that these two companies entered into by-party settlement. The petitioner states

that the Joint Compromise Petition was filed in Original Suit No. 11 of 2013 and the first respondent herein agrees to pay an amount of Rs. 75,00,000/-and further amount of Rs. 36,18,148/-. A copy of the Joint Compromise Petition is annexed at Annexure, A/D. The petitioner states that the suit was disposed of by an order dated 7.2.2013.

[7] The scope of the complaint is that after the settlement was arrived, respondents failed to make the payment to the contractors in spite of the settlement Order dated 7.2.2013 rendered by the competent Court.

[8] The petitioner pleads that there is no material to implicate the petitioner in the offence.

[9] Mr. S. Samarjit, learned CGC appearing for the respondents states that while the petitioner was responsible for the settlement agreement, failure to pay the amount resulted in a case of cheating as stated in the complaint. He therefore, states that no cause has been shown to set aside the case before the Competent Court and the trial should go on.

[10] After considering the nature of pleas made by the petitioner, it is evident that there has been a financial transaction between the respondent No. 1 and respondent No. 2. The Civil suit in respect of money claim has ended in a compromise by filing a Joint Memorandum. It contained certain condition. It is alleged that the terms of settlement has not been complied with by respondent No. 2 who was the employer of the petitioner. Hence the criminal case. The fact that the petitioner accused pleads that he is innocent

and did not breach the term of settlement and that there is no element of cheating are facts in dispute. This fact has to be established before the Court as to how the terms of settlement was arrived and what in the nature of undertakings given in the settlement in the Civil proceedings namely, Joint Compromise Petition Annexure, A/D.

[11] At this stage, there appears to be no serious errors of law to set aside the impugned order. The petitioner has not made out a case to set aside the Order dated 22.05.2013. In this result, the relief as sought for is declined and the petitioner is at liberty to move the Court of Competent jurisdiction where the case is pending and vindicate his rights that the complaint against him is false or frivolous.

[12] The issue has to be resolved before the trial Court and not by way of a petition filed under Section 482 of Cr.P.C.

[13] Accordingly, the criminal petition stands disposed as above.

CHIEF JUSTICE

L.haineichong