

Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

W.P (Crl.) No. 2 of 2020

Date of Decision: 17.12.2020

Shri Ramesh Bawri Vs. State of Meghalaya & 3 Ors.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Jindal, Adv.
For the Respondent(s) : Mr. N.D. Chullai, AAG, with
Ms. R. Conley, GA.

i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

1. Heard Mr. S. Jindal, learned counsel for the Petitioner who has submitted that the Petitioner has lodged an FIR dated 19.11.2020 with the Officer-In-Charge Umiam PS (Respondent No.2) primarily on the allegation that some workers of the Proforma Respondent No. 4 Shri Wally Marbaniang had illegally trespass into his plot of land known as "Lumbawri" situated at UCC Road Umbir village.

2. It is also the submission of the learned counsel that the police have investigated into the matter and the Petitioner as well as Proforma Respondent No. 4 were called by the police with a request to submit all relevant documents as regard the Petitioner's land. Thereafter, the police authorities have taken a view that they are not in a position to take any action and that no protection

can be afforded to the Petitioner, inter alia on the ground that there exists a civil dispute between the parties and that the Title Suit No. 7(T)2017 preferred by the Petitioner before the court of the learned Assistant to Deputy Commissioner, Nongpoh has since been dismissed for default vide order 17.10.2017.

3. Thus, being aggrieved by the alleged inaction of the police, the Petitioner has approached this Court with this instant Writ Petition. However, Mr. Jindal has limited his prayer to only two aspects, i.e that this Court may be pleased to direct the police to function within the statutory provisions of law and procedure and secondly, that protection may be given to the Petitioner as far as his property is concerned.

4. The learned counsel has also led this Court to a number of decisions and has also pointed out that as per Section 149 Cr. PC, it is the duty of the police to prevent the commission of any cognizable offence. This read conjointly with Section 23 of the Police Act also imposed a statutory duty on the police to prevent the commission of offences and public nuisances and to detect and bring offenders to justice and to apprehend all persons whom he is legally authorized to apprehend.

5. The learned AAG Mr. N.D. Chullai along with Ms. R. Colney learned GA has opposed the submission of the learned counsel for the Petitioner and has submitted that the Petitioner has efficacious, alternative remedy as provided under the Cr. PC particularly Section 154 (3) and 156(3) amongst others and as such, this petition is devoid of merit and is liable to be dismissed. The case of ***“Sakiri Vasu v. State of Uttar Pradesh & Ors”*** (2008) 2 SCC 409 was cited by the learned AAG in this regard.

6. After hearing the learned counsel for the rival parties at length, without going to the merits of this instant petition, as agreed to by the parties, this petition is hereby disposed of at this stage.

7. However, before parting with this case, it is the observation of this Court that the police being the enforcer of law and order and arbiter of public peace and in situations of this kind as is evident from the submission of the parties, due process of law and procedure has to be complied with to come to a logical conclusion so as to afford the parties concerned to proceed to the next step. In this regard the Superintendent of Police, Ri-Bhoi District would do well to take note of this observation.

Judge

Meghalaya

17.12.2020

"N. Swer, Stenographer"

