

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

Crl. Petn. No. 60 of 2021

Date of Order: 30.09.2021

Shri Gobinda Dutta & 2 Ors. Vs. State of Meghalaya & Anr.

**Coram:**

**Hon'ble Mr. Justice W. Diengdoh, Judge**

**Appearance:**

For the Petitioner/Appellant(s) : Mr. K. Singha, Adv.  
For the Respondent(s) : Mr. B. Bhattacharjee, AAG, with  
Mrs. I. Lyngwa, GA.

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

1. Matter is taken up via video conferencing.
2. Heard Mr. K. Singha, learned counsel for the Petitioner who has submitted that an FIR was lodged on 01.06.2019 by one head constable Mr. Denang D. Momin of Bajendoba PS with the allegation that one truck bearing registration No. AS-16-B-0237 carrying a load of sawn timbers coming from Dhudhnoi side and proceeding to Dhubri, Assam, capsized on one subway at Malchapara.
3. On investigation, it was found that the said truck was carrying the said timbers load from Mairang, West Khasi Hills but the Transit Pass (TP) was procured from one M/s Mamata Vaneer Products, Umiam, Ri-Bhoi District. On the complaint duly registered as Bajendoba PS Case No. 16/2019, u/s 188/379/426/420 IPC r/w section 3 of PDPP Act 1984 and Section 7 of

Meghalaya Forest (Removal of Timber) Regulation Act, 1981. Investigation was conducted. On investigation being completed, charge sheet was filed by the conducting I.O. From the charge sheet, a copy of which was annexed with this instant application, it is seen that the I.O. has found it fit to implicate the driver of the said vehicle as well as the associates of M/s Mamata Vaneer Products who are the 3(three) Petitioners herein under the relevant provisions of law as stated above.

4. The learned counsel for the Petitioners has submitted that the Petitioners herein have no connection with the said M/s Mamata Vaneer Products since it is on record that the same was closed for the last two years and as such they have no more connection with the said M/s Mamata Vaneer Products. Accordingly, they cannot be prosecuted for being involved in the said case and as such this is a fit case for exercise of inherent power by this Court u/s 482 Cr.PC. However, the learned counsel for the Petitioner has submitted that the relevant records may be called for and in the interim, the proceedings of the case may be stayed.

5. Also heard Mr. B. Bhattacharjee, learned AAG along with Ms. I. Lyngwa, learned GA who has submitted that on perusal of the charge sheet it would show that the Investigating Officer(IO) has rightly implicated the said Petitioners herein for which their involvement in the case has to be determined on the basis of evidence and as such, at this stage, this is not a fit case for this Court to exercise its powers u/s 482 Cr.P.C. as regard the involvement of the Petitioners herein in the said case.

6. The learned AAG has also referred to the case of "*State of Haryana v. Bhajanlal*" 1992 Supp(1) SCC 335 to submitted that in the said case, the Hon'ble Supreme Court has held that sufficiency or insufficiency of evidence cannot be a ground of quashing.

7. It is further submitted that the Charge Sheet unequivocally speaks about the involvement of the Petitioners herein in as much as the vehicle which was carrying the timber was on the strength of the Transit Pass(TP) issued by M/s

Mamata Vaneer Product, which though stated that is defunct, however the Petitioners are associated with the same and therefore it is a matter of evidence as to the role of the Petitioners in the case.

8. Having heard the learned counsel for the parties and on appreciation of the submissions made, this Court on going through the provisions of Section 482 Cr.P.C. has noticed that the inherent power of the High Court to exercise power under this provision is only to give effect to any order under this Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Prevention of abuse of the power by the court in the context in the case in hand is not deemed necessary as there appears to be no such abuse by the IO or the Court concerned and no infirmity is found in the proceedings particularly the presentation of the charge sheet. In any case, securing the ends of justice would mean that the Petitioners herein has to face trial and to prove their case by way of evidence.

9. In the case of “ State of Haryana v. Bhajanlal” (supra), the Hon’ble Supreme Court at paragraph 97 of the same has quoted paragraph 59 of the case of “Pratibha Rani v. Suraj Kumar” (1985) 2 SCC 370 wherein, it is held that:-

***“ It is well settled by a long course of decisions of this Court that for the purpose of exercising its power under Section 482 CrPC to quash a FIR or a complaint the High Court would have to proceed entirely on the basis of the allegations made in the complaint or the documents accompanying the same per se. It has no jurisdiction to examine the correctness or otherwise of the allegations”.***

10. Again, in the same case of “Bhajanlal”(Supra), the Hon’ble Supreme Court at paragraph 102 has enumerated certain categories of cases by way of illustration wherein the inherent power u/s 482 Cr.PC can be exercised to prevent abuse of the process of any court or to secure the ends of justice. The guidelines by way of illustration consists of the following:-

***“ (1) Where the allegations made in the first information report or the***

*complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*

*(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*

*(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

*(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*

*(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

*(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

*(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

11. As far as the case of the Petitioners is concerned, it appears that it does not fall within any of the above guidelines to compel this Court to exercise its inherent power.

12. In view of the observations made above, this petition is devoid of merit

and is hereby dismissed.

13. Accordingly, matter is disposed of.

**Judge**

Meghalaya

30.09.2021

*"N.Swer, Stenographer"*

