

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

**CRIL.PETN. No. 14 of 2022**

Khaidem Kalachand Singh, aged about 46 years, S/o (late) Kh. Bijoy Singh of Thangmeiband Khomdram Sellungba Leikai, at present Sagolband Meino Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur, Pin. No. 795001.

*....Petitioner*

- Versus -

1. The State of Manipur represented by the Commissioner/Secretary (Home), Government of Manipur, Manipur Secretariat, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur, Pin. No. 795001.
2. The Director, Prosecution Department, Lamphel D.C. Complex, P.O. & P.S. Lamphel, Imphal West District, Manipur, Pin No. 795004.
3. The Additional Superintendent of Police(Prosecution), Manipur, P.O. & P.S. Imphal, Imphal West District, Manipur, Pin. No. 795001 and
4. The Officer-in-Charge, Imphal Police Station, P.O. & P.S. Imphal, Imphal West District, Manipur, Pin. No. 795001.

*...Respondents*

**B E F O R E**

**HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR**

For the petitioner : Mr. Mr. Th. Mahira, Advocate.  
For the respondents : Mr. Athouba Khaidem, PP.

**Date of Order : 31.08.2022**

**O R D E R**

The petitioner in this criminal petition, filed under Section 482 Cr.P.C., is the complainant/victim in F.I.R. No. 254(9) 2016 IPS, registered under Sections 365, 392 and 34 IPC read with Section 25(1-B) of the Arms Act, 1959. He is aggrieved by the order dated 21.12.2021 passed by the learned Chief Judicial Magistrate, Imphal West, in Cril. Misc. (F.R) Case No. 29 of 2020 pertaining to the subject F.I.R, to the extent that the learned Chief Judicial

Magistrate directed the Investigating Officer to initiate proceedings for obtaining prosecution sanction against the accused persons.

Heard Mr. Th. Mahira, learned counsel for the petitioner; and Mr. Athouba Khaidem, learned PP, appearing for the State authorities.

Perusal of the order dated 21.12.2021 passed by the learned Chief Judicial Magistrate, Imphal West, reflects that he thereby rejected the request of the Investigating Officer to accept the final report, seeking closure of the subject F.I.R., and took cognizance of the offences under the provisions of law mentioned in the F.I.R. Having stated so, the learned Chief Judicial Magistrate noted that the two accused were members of the Armed Forces and the State Police respectively and directed the Investigating Officer to initiate proceedings for obtaining prosecution sanction against them as per law. The learned Chief Judicial Magistrate, Imphal West, also directed him to proceed with the investigation of the case and submit a report.

It may be noted that, in **Devinder Singh and others vs. State of Punjab through CBI [(2016) 12 SCC 87]**, the Supreme Court observed that once an act or omission has been found to have been committed by a public servant in discharging his public duty, it must be given liberal and wide construction in so far as its official nature is concerned, but a public servant is not entitled to indulge in criminal activities and, to that extent, Section 197 Cr.P.C. has to be construed narrowly and in a restricted manner. It was further observed that in case sanction is necessary, it has to be decided by a competent authority and sanction has to be issued on the basis of sound

objective assessment and that it is not for the Court to act as a sanctioning authority.

Therefore, the question as to whether sanction is required in the case on hand to prosecute the accused is an issue which would have to be considered by the competent authority and it was not for the learned Chief Judicial Magistrate, Imphal West, to straightaway conclude that such sanction was necessary. To that extent, the order dated 21.12.2021 passed by the learned Chief Judicial Magistrate, Imphal West, in Cril. Misc. (F.R) Case No. 29 of 2020 warrants interference. The sentence in the said order which reads as follows- 'As the accused persons are members of Armed Forces and State police personnel, the I.O of the present case is directed to initiate proceedings for taking Prosecution Sanction against the accused persons as per law.' shall stand deleted. It is left open to the competent authority to examine as to whether exercise of power under Section 197 is warranted, at the appropriate stage.

Criminal Petition No. 14 of 2022 is accordingly allowed.

**CHIEF JUSTICE**

*Indrajeet*