



Serial No.05
RegularList

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Rev. P. No. 17 of 2023

Date of Order: 28.11.2024

Shri. Bijay Singh
S/O Shri Rajendra Prasad Singh
R/O Plot No. 237, R.R. Colony,
Rynjah, Shillong, East Khasi Hills
District, Meghalaya.

Vs. 1.State of Meghalaya, Represented by its
Commissioner and Secretary, Home,
Shillong.

2.Shri. Sanjay Sharma,
S/o Shri. Kailash Chandra Sharma,
Of 13 CB, Luckier Road, Garikhana,
Shillong.

....PETITIONER.

....RESPONDENTS.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. A. S. Siddiqui, Sr. Adv. with
Ms. A. Kharmyndai, Adv.

For the Respondent(s) : Ms. S. Shyam, GA. (R: - 1)
Mr. N. Khera, Adv. (R: - 2)

ORAL:-

Heard Mr. A. S. Siddiqui, learned Senior Counsel assisted by Ms. A. Kharmyndai, learned Counsel appearing for the petitioner also Ms. S. Shyam, learned GA appearing for the State-respondent No.1 and Mr. N. Khera, learned Counsel appearing for the respondent No.2.

By this criminal revision petition, the petitioner has challenged the impugned order dated 22-09-2023 passed in Other Application No.21 of 2023



by the learned Chief Judicial Magistrate, Shillong whereby one Weighing Machine (Electronic Weighing Scale) and 21 (twenty one) number of keys seized by Seizure List dated 29-11-2022 in connection with the Lumdiengjri P.S Case No. 123 (10) 2022 under Section 380 IPC were released on Zimma to the respondent No.2.

Assailing the impugned order, Mr. A. S. Siddiqui, learned Senior Counsel for the petitioner has drawn attention of this Court to a report dated 20-09-2023 forwarded by the Investigating Officer of the Lumdiengjri P.S Case No. 123 (10) 2022 requesting the Court not to release any of the materials seized by the seizure memo dated 29-11-2022 and submitted that the learned Chief Judicial Magistrate while passing the impugned order has not taken into consideration the aforesaid report and directed the release of the seized materials to the respondent No.2 mechanically without any application of mind. It is the submission of the learned Senior Counsel that the learned Chief Judicial Magistrate could not have passed the impugned order directing for release of seized materials in favour of the respondent No.2 as the release on Zimma has to be made on the basis of the materials on record. He, thus, prays that the impugned order be set aside and the matter be remanded back for passing of order afresh.

Ms. S. Shyam, learned GA for the State-respondent No.1 supports the impugned order and submits that no illegality has been committed by the learned Chief Judicial Magistrate while passing the impugned order and the same calls for no interference by this Court.

Mr. N. Khera, learned Counsel for the respondent No.2 refuted the submission made on behalf of the petitioner and submitted that the seizure was made consequent to the registration of the Lumdiengjri P.S Case No. 123 (10) 2022 on the basis of the FIR lodged by the respondent No.2 wherein petitioner is the main accused. He submitted that the respondent No.2 is the rightful



person to whom the materials were released on Zimma as the petitioner being the accused cannot seek release of the seized materials in his favour. The learned Counsel further submitted that a civil suit being Title Suit No. 23 (H) of 2022 is pending in the Court of Assistant District Judge, Shillong, between the respondent No.2 and the petitioner covering the issue of claim and ownership of the materials seized by the police. The learned Counsel further invited attention of this Court to orders dated 28-11-2022 and 03-07-2023 passed in Misc. C/No. 45 (H) 2022 arising out of the above Title Suit whereby the civil Court has granted injunction in favour of the respondent No.2. It is submitted that the petitioner is actively contesting the said civil proceeding and has already filed an appeal against the orders dated 28-11-2022 and 03-07-2023, however, has not been able to obtain any order in his favour. The learned Counsel submitted that since the matter stands seized by the Civil Court and there exists orders in favour of the respondent No.2, the impugned order of Zimma passed by the learned Chief Judicial Magistrate cannot be faulted with. The learned Counsel contended that there is no merit in this revision petition and the same deserves to be dismissed forthwith.

Upon hearing the submission of the rival parties and on perusal of materials on record, it is clear that there is a civil suit pending between the rival parties covering the materials which were seized in connection with the Lumdiengjri P.S Case No. 123 (10) 2022 under Section 380 IPC. There also exists *interim orders* dated 28-11-2022 and 03-07-2023 passed in favour of the respondent No.2. Furthermore, in the order dated 28-11-2022, a direction has been made to the police authority to ensure compliance of the interim order. Since the entire matter stands seized by the civil Court over the claim and ownership of the seized materials between the rival parties and there are existing orders in favour of the respondent No.2, no illegality can be attributed to the impugned order 22-09-2023 passed by the Chief Judicial Magistrate.



That the report dated 20-09-2023 of the Investigating Officer is also inconsequential at this stage in view of the orders passed by a competent civil Court.

For what has been discussed above, there is no merit in this revision petition and the same stands dismissed.

Judge

Meghalaya
28.11.2024
“Biswarup PS”