

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

WP(C)No.118 of 2022

H. Lenindro Singh, aged about 36 years, S/o H. Ibobi Singh, resident of Khurai Angom Mamang Leikai, PO Lamlong PS Lamlai, District Imphal East, Manipur-795001.

...Petitioner

– Versus –

1. The State of Manipur through the Chief Secretary- cum-Secretary(Home), Govt. of Manipur, Secretariat South Block, PO & PS Imphal, District Imphal West, Manipur-795001.
2. The Director General of Police, Govt. of Manipur, Babupara, PO & PS Imphal, District Imphal West, Manipur-795001.
3. The Superintendent of Police, Vigilance & Anti-Corruption, DC Office Complex, Lamphelpat, PO & PS Lamphel, District, Imphal West, Manipur-795001.
4. Officer-in-Charge, Vigilance & Anti-Corruption, DC Office Complex, Lamphelpat, PO & PS Lamphel, District Imphal West, Manipur-795001.
5. Smt. Wangkheimayum Ranibala Leima, aged about 45 years, W/o. W. Opendro Singh, resident of kangla Sangomshang Mayai Leikai, PO Lamlong, PS Lamlai, District Imphal East, Manipur-795010.

6. Loukrakpam Premandro Singh, the then S.O of the Zilla Parishad, Imphal East, resident of Moirangkampu Sajeb Makha Leikai, PO & PS Porompat, Manipur-795005.
7. Shri. Thongam Debananda Singh, the then Executive Engineer, Zilla Parishad, Imphal East, resident of Kongpal Thongam Leikai, PO & PS Porompat, Imphal East District, Manipur-795005.

.... Respondents.

BEFORE

HON'BLE THE ACTING CHIEF JUSTICE MR. M.V. MURALIDARAN

For the Petitioner : Mr. Kh. Tarunkumar, Sr. Adv.

For the Respondents : Mr. Shyam Sharma, GA; and Mr. L. Raju, learned Adv. for private respondents.

Date of reserved. : 19.06.2023

Date of Judgment & Order : 05.07.2023.

JUDGMENT & ORDER
(CAV)

Heard Mr. Kh. Tarunkumar, learned senior counsel for the petitioner and Mr. Shyam Sharma, learned Government Advocate for the respondents.

2. This writ petition has been filed by the petitioner for issuance of a writ of mandamus directing the official respondents to complete the investigation

process and submit the charge-sheet to the concerned Court to initiate further proceedings.

3. Mr. Kh. Tarunkumar, learned senior counsel for the petitioner submitted that the Vigilance and Anti-Corruption had registered an FIR bearing No.4(5)2020 under Section 120B read with Section 420 IPC and Section 13(2) read with Section 13(1)(a) of the Prevention of Corruption Act, 1998 against the private respondent. Shri. Shankerjit Loitongbam, Additional Superintendent of Police, V&AC was requested to investigate the said case. He would submit that though the FIR was registered on 16.5.2020, till date the investigation has not yet been completed and charge-sheet has not been filed before the Court for proceeding further against the accused.

4. The learned counsel for the petitioner urged that the aforesaid FIR has been registered after a long legal battle and the lethargic action on the part of the official respondents in not completing the investigation is illegal and arbitrary. If the accused are not punished in accordance with law at the earliest, the act of misuse of public money by the public officials will further be encouraged and there will be no room for justice for poor citizen of this democratic nation. Thus, a prayer has been made to direct the official respondents to complete the investigation and file a charge-sheet against the accused.

5. Mr. Shyam Sharma, the learned Government Advocate appearing for the official respondents submitted that the investigation of the FIR by the

Vigilance and Anti-Corruption is almost completed and prosecution sanction had been sought from the Additional Chief Secretary, Rural Development and Panchayat Raj Department, Government of Manipur, against the accused and as soon as the sanction is accorded by the competent authority, the final report will be submitted before the Court.

6. In reply, the learned counsel for the petitioner, by placing reliance upon the decision of Gauhati High Court in the case of ***Rizaplina v. The State of Mizoram, 1992 Cri.L.J.621*** and the decision of the Allahabad High Court in the case of ***Dr.Z.U.Ahmad and another v. State of UP and others, 1998 Cri.L.J. 2100*** submitted that in a case of misappropriation of the Government fund, sanction was not required.

7. Countering the aforesaid argument of the learned counsel for the petitioner, the learned Government Advocate submitted that the grant of sanction is not an empty formality or an acrimonious exercise but a solemn and sacrosanct act which affords protection to Government servants against frivolous prosecutions. Sanction is a weapon to ensure discouragement of frivolous and vexatious prosecution and is a safeguard for the innocent but not a shield for the guilty. In support, the learned Government Advocate placed reliance upon the decision of the Hon'ble Apex Court in the case of ***Mansukhlal Vithaldas Chauhan and State of Gujarat, (1997) 7 SCC 622***.

8. This Court considered the rival submissions and also perused the materials available on record.

9. The prayer in the writ petition is to direct the official respondents to complete the investigation process in respect of FIR No.4(5)2020 under Section 120B read with Section 420 IPC and Section 13(2) read with Section 13(1)(a) of the Prevention of Corruption Act, 1998 registered against the private respondents.

10. As could be seen from the records, the origin of registering the FIR is based on the RTI information obtained by the petitioner and the order passed in the PIL No.4 of 2017 filed by the petitioner and the report filed by the Commission constituted in respect of the construction of pucca drain from Angom Mamang Leikai to Mayai Leikai, construction of sanitary public toilet at Angom Leikai near Lai Lampak under 13th Finance Commission and the construction of market shed at Angom Maning Leikai under Kangla Gram Panchayat, Imphal East District, Manipur.

11. According to the petitioner, the Commission visited Khurai Angom Leikai and inspected the aforesaid places. In respect of the construction of pucca drain from Angom mamang Leikai to Mayai Leikai, the Commission has submitted that there is no such construction of pucca drain from Angom Mamang Leikai to Mayai Leikai. In respect of the construction of market shed at Angom Maning Leikai, the Commission submitted its findings by stating that the Commission is not in a position to confirm that the said market shed was actually

the market shed constructed under the work programme which is the subject-matter. In respect of toilet also, the Commission submitted its report stating that it is not in a position to confirm the said sanitary public toilet is actually the sanitary public toilet constructed under the work programme.

12. PIL No.4 of 2017 was disposed of on 28.11.2017 with a direction to the State Vigilance Commission to examine the issue involved in the aforesaid PIL and submit a report within a period of two months. In the said order, this Court further observed that copies of the order along with copies of pleading as well as the report of the Commission be furnished to the SP Vigilance, Government of Manipur, for doing the needful and it goes without saying that if the petitioner is aggrieved by any subsequent action consequent upon the direction issued by the Court, he will be at liberty to approach this Court again.

13. Since the concerned authorities did not register the criminal case against the accused, the petitioner filed PIL No.62 of 2018 with a prayer to direct the Vigilance and Anti-Corruption Department, Government of Manipur, to register a criminal case against the fifth respondent herein under the provisions of Prevention of Corruption Act, 1988 and to investigate the matter. The said PIL was closed by this Court on 28.11.2018 with an observation that the petitioner can move an application against the official respondents who have disobeyed the order dated 28.11.2017 passed in PIL No.4 of 2017. Pursuant to the liberty so granted in PIL No.62 of 2018, the petitioner has filed Contempt

Case No.212 of 2018 for taking up appropriate action against the official respondents who have disobeyed the direction in PIL No.4 of 2017.

14. According to the petitioner, without obtaining necessary approval, the competent authority has changed the construction of work site of the pucca drain from Angom Mamang Leikai to Mayai Leikai at Angom Leikal Laishram Leirak by the Kangla Gram Panchayat and also on inspection, it was noticed that the length of drains constructed in question under MGNREGS 2012-2013 at Angom Leikai Laishram Leirak is found to be 168m and contrary to that, the length of the aforesaid drain was found entered as 331 m in the relevant Measurement Book. After finding a *prima facie* case for commission of the offence by W.Ranibala Leima, Ex-Pradhan of Kangla Gram Panchayat (5th respondent); L.Premanandro Singh, the then SO of Zilla Praishad, Imphal East District (6th respondent) and unknown others, FIR No.4(5)2020 was registered under Section 120B read with Section 420 IPC and Section 13(2) read with Section 13(1)(a) of the Prevention of Corruption Act, 1998 on 16.5.2020.

15. The case of the petitioner is that though the FIR was registered on 16.5.2020, the investigation has not been completed, for which a direction may be issued to the official respondents to complete the investigation and file a charge-sheet against the accused.

16. The plea of the official respondents is that the investigation has almost completed and prosecution sanction had been sought and as and when

prosecution sanction is accorded, the final report will be submitted. On the other hand, it is the say of the petitioner that prosecution sanction is not necessary as held by the Allahabad High Court and the Gauhati High Court in the cases referred to above.

17. In **Dr. Z.U. Ahmad**, supra, the Allahabad High Court held as under:

“9. In S.N. Saha v. M.S. Kochar, 1979 Cri LJ 1367 : (AIR 1979 SC 1841) it is held that dishonest misappropriation or conversion of goods by public servant cannot be regarded as an offence alleged to have been committed while acting or purporting to act in the discharge of his official duty. Accordingly, sanction to prosecute for an offence under Ss.409, 120-B I.P.C. was not necessary.”

18. In **Rizapliana**, supra, the Gauhati High Court held as under:

“17. Sri Deka learned counsel for the appellant has submitted that the appellant was a public servant and as admitted by PW5 Hauthuama, he could be removed by the Government and no sanction for prosecution having been obtained, the trial was vitiated. Section 197 of the Code provides for sanction of the Government for prosecution for an offence committed by a public servant while acting or purporting to act in the discharge of official duty. The fact that the appellant was Administrative Officer does not mean that the acts in question which he had committed, were in the discharge of his official duties, more so acts which constituted misappropriation of Government rice. It is no part of the official duty of a Government servant to misappropriate the Government property and accordingly, in my opinion, no sanction under Section 197 of the Code was required for the prosecution of the appellant.”

19. In the instant case, the Deputy SP, Vigilance and Anti-Corruption Police Station, Manipur, had submitted a report dated 16.5.2020 to the effect that *prima facie* case for the commission of offence of cheating, criminal conspiracy and criminal misconduct on the part of the private respondents herein and unknown others have been well established. Therefore, the Officer-in-Charge of Vigilance and Anti-Corruption Police Station, Manipur, was required to register a regular case against the accused.

20. In ***Mansukhlal Vithaldas Chauhan***, supra, the Apex Court held:

“18. The validity of the sanction would, therefore, depend upon the material placed before the sanctioning authority and the fact that all the relevant facts, material and evidence have been considered by the sanctioning authority. Consideration implies application of mind. The order of sanction must ex facie disclose that the sanctioning authority had considered the evidence and other material placed before it. This fact can also be established by extrinsic by placing the relevant files before the Court to show that all relevant facts were considered by the sanctioning authority. (See also Jaswant Singh v. State of Punjab, AIR 1958 SC 124 and State of Bihar v. P.P. Sharma, 1992 SCC (Cri) 192.”

21. It is true that the grant of sanction is not an idle formality or an acrimonious exercise but a solemn and sacrosanct act which affords protection to Government servants against frivolous prosecutions. In view of the limited prayer sought in the present writ petition, it is for the concerned investigating

agency to file a charge-sheet in accordance with law after completion of the investigation.

22. Taking into consideration the overall aspects, it would be appropriate to direct the official respondents to complete the investigation in respect of FIR No.4(5)2020-V&AC Police Station, Manipur, if not completed already, and submit the charge-sheet before the jurisdictional Court to initiate further proceedings against the accused, as the FIR was registered way back on 16.5.2020.

23. In the result,

- (i) The writ petition is allowed.
- (ii) The official respondents are directed to complete the investigation in respect of FIR No.4(5)2020-V&AC Police Station, Manipur and file charge-sheet before the jurisdictional Court, within a period of two months from the date of receipt of a copy of this order.
- (iii) No costs.

ACTING CHIEF JUSTICE

FR/NFR

John Kom