

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

Crl. Petn. No.11 of 2023

Sri Satyanarayan Pandey

.....Petitioner

_V_E_R_S_U_S_

The State of Tripura & Ors.

.....Respondents

For Appellant(s)	:	Mr. P. Majumder, Advocate.
For Respondent(s)	:	Mr. S. Ghosh, Addl. P.P.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

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19/07/2023

Heard Mr. P. Majumder, learned counsel appearing for the petitioner also heard Mr. S. Ghosh, learned counsel appearing for the respondent-State.

[2] The present petition has been filed under Section-482 of the Code of Criminal Procedure, 1973 challenging the impugned order dated 24.08.2022 passed by the learned Chief Judicial Magistrate, North Tripura, Dharmanagar in connection with case No.2021 KDL 061 and for quashing the order dated 24.08.2022 passed by the learned Chief Judicial Magistrate, North Tripura, Dharmanagar. Further, under Section-173(8) of Cr. P.C. seeking for further investigation in respect of the offence after a report has been forwarded to the learned Magistrate in respect of FIR No.0061 insofar as, it relates to the petitioner, registered in the Kadamtala P.S. North Tripura by one Sri Satyanarayan Pandey, Manager of Maheshpur Tea Estate Unit of Narendrapur Tea Co. Pvt. Ltd. registered under Sections-379 of the Indian Penal Code.

[3] Brief facts of the present case are that being aggrieved and dissatisfied with the order of the learned Chief Judicial Magistrate, North Tripura, Dharmanagar, passed on 24.08.2022 in P.S. Case No.2021/KDL/061 in respect of acceptance of final report as filed by the I.O. of the case, respondent No.5 arbitrarily without proper investigation as per law.

[4] The present petitioner is the Manager of M/s Maheshpur Tea Estate, under the jurisdiction of Kadamtala P.S., North Tripura on receiving information from the reliable source in regard to theft of valuable trees from the Tea Estate on periodic basis by the miscreants therefore, the petitioner on several date and time filed appropriate complaint before the authority concerned i.e. Officer in Charge of the police Station did not take appropriate initiative from the first day of complaint i.e. 18.06.2021 and after several communication and complaint filed to the authority with specific data of trees which is stolen by using of vehicle as specified

in the complaint and lastly on 02.12.2021 i.e. after 5 months and fifteen days of delay, the officer in charge of Kadamtala P.S. registered the complaint as FIR vide Dadamtala P.S. case No.2021/KDL/061 under Section-379 of IPC. After registering the case, the I.O of the case started investigation from 03.12.2021, by adopting wrong method without application of mind, non examination of vital witnesses who were very much reliable and acquainted to deliver the statement in connection with the case and finally the IO of the case rashly and arbitrarily completed the investigation with in short period of time and submitted final report on 30.12.2021 without visiting the actual place of occurrence and also not seized any materials and alleged vehicle as involved in the case as well as for transportation of valuable trees from the place of occurrence.

[5] After submitting the final report the present petitioner being the authorized person of the Tea Estate filed an objection petition against the final report on 24.08.2022, after hearing the petition the learned Chief Judicial Magistrate, Dharmanagar, North Tripura rejected the said objection petition for further investigation. Thus, the present criminal petition before this Court for quashing and setting aside the order dated 24.08.2022 and prayer for further investigation as there are good grounds to prefer this present petition.

[6] Mr. P. Majumder, learned counsel appearing for the petitioner has submitted that the investigating officer investigated the case without any fair and proper way as per criminal jurisprudence and it is precedent that the investigation, must be unbiased, honest, just and in accordance with law and by way of investigating the entire emphasis of the case has to be bring out the truth of the case before the Court of competent. The role of the investigating officer to be one for protection of life, liberty and property of citizen with investigation of the offence being one of its foremost duties with the history of criminal investigation in the treatise on criminal investigation. But, in the present case the respondent No.5 i.e. the I.O. had not conducted the investigation in proper manner.

[7] The respondent No.4 i.e. the Officer in Charge of the P.S. after elapse of a considerable period of 5 months and 15 days delay, the investigating agency has registered the complaint as FIR on 02.12.2021 under Kadamtala P.S. vide case No. 2021 KDL 061, by this acts the respondents, it is very much evidence that the investigation is not done in a competent manner as per law. It has been further submitted that he has never been informed about the action taken by the investigating officer in day by day regarding P.S. case No.2021 KDL 061.

[8] Mr. Majumder, learned counsel has further contended that the officer in charge never visited the actual place of occurrence of the incident, neither they have seized any articles, any seizure list as to be recovered from the place of occurrence of the incident, as the I.O and the concerned officers investigating the case not recorded any statement of the petitioner and the other witnesses under Section-161 of Cr. P.C. who were present at the place of incident whereas, submitting the final report stating to hold that no case has been made out due to insufficient evidence and witness.

[9] The learned Court below has failed to appreciate that the petitioner and the witnesses who were mostly workers of the Tea Estate were not recorded by the investigating officers and the I.O of the case directed the witnesses named in the final report to appear before them at time of investigation, the statement purportedly recorded by the investigating officers does not bear the signature of the witnesses. The list of witnesses and their statements submitted in the final report, is not as per fact and circumstances of the case and the statements of such witnesses are false and fabricated and needed to be quashed and set aside for impartial investigation to meet the ends of justice.

[10] The learned Court below without observing the mandate of law has appreciated the charge sheet and such depicts non-application of judicial mind the same is liable to be set aside. The learned Court below has failed to appreciate that the investigating officers has submitted the final report on 30.12.2021 without recording any statement of the petitioner and the actual witness i.e. the workers and staffs of the estate under Section-161 Cr. P.C.

[11] In view of above and having gone through the material evidence on record, this Court is of the opinion that proper investigation has not be made but the final report is filed by the investigating officer. This Court feels that the investigating officer Mr. Ranjit Kr. Nath, ASI, of this case has not conducted the investigation in a proper manner and he has not filed the final report with due diligence despite there have been a specific letter dated 11.10.2021 filed by the complainant representing Maheshpur Tea Estate indicating that they are suspecting one person, namely, Sri Kiran Bhumij of Chaydrun, Maheshpur, Kadamtala, North Tripura along with some other persons have committed the theft wooden log and transported the same in a vehicle bearing registration No.TR-05B-1698.

[12] Despite giving the clue to the investigating officer, it appears that in a casual manner the I.O. has filed the FIR without application of his mind. Neither the final report nor the counter affidavit which is filed by the respondent indicates

that they have taken any action in pursuance of the letter dated 11.10.2021. The final report do not indicate what all investigation he is conducted. In view of the same, this Court finds fault with the investigation and direct the Superintendent of police, North Tripura, Dharmanagar to place this I.O. i.e. Sri Ranjit Kr. Nath, ASI, out of his law and order responsibility and handover the charge of investigation of this case to an able officer.

[13] Accordingly, the final report which is filed by the I.O. Sri Ranjit Kr. Nath and affirmed by the learned Court below stands set aside consequently, the present criminal petition is allowed and directed for fresh investigation and file a comprehensive final report. Accordingly, the present petition stands allowed and disposed of. A copy of this order be communicated to the S.P. North Tripura immediately.

JUDGE

A. Ghosh

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Date: 2023.07.20
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