

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn. No. 35 of 2023

	Date of Decision: 01.05.2023
Dr. Chackunny Varghese	Vs. State of Meghalaya & 2 Ors.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)	:	Mr. P. Yobin, Adv.
For the Respondent(s)	:	Mr. R. Gurung, GA.
		Ms. A. Thungwa, GA. for R 1 & 2.
		None for R 3.

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

JUDGMENT AND ORDER (ORAL)

1. Heard Mr. P. Yobin, learned counsel appearing on behalf of the petitioner as well as Mr. R. Gurung, learned GA appearing on behalf of the State respondents No. 1 & 2.

2. The petitioner has come before this Court with an application under Section 482 Cr.P.C seeking exercise of its inherent power as regard a criminal proceeding in G.R. Case No. 108 of 2022 pending before the learned Chief Judicial Magistrate, Nongpoh.

3. According to the learned counsel for the petitioner, the brief facts of the case is that the complainant who has been arrayed as respondent No. 3 herein was a teacher in a school called Christ School International Nongsder. In fact, she is not a permanent teacher, but a substitute teacher who had come in place of a regular teacher who was on medical leave.

4. It is also submitted that the respondent No. 3 in course of her teaching stint in the said school, her relationship with the school authority and also the petitioner herein, has exhibited a character which is unbecoming of a teacher, particularly with regard to her attire and also her punctuality, which has caused concerned to the school management, for which she was counseled upon from time to time.

5. On a particular occasion, when the respondent No. 3 had come late to school, the Principal had called upon the Director who is the petitioner herein to look into the matter, whereupon the Director had counseled her and on noticing that she is also mentally weak, therefore, had suggested that she admit herself into a centre called Ri-Kanaan for her recovery, which centre belongs to the petitioner, but was managed by other agencies. It is in the process of this meeting and what transpired therein that made the respondent No. 3 to come out with an allegation of sexual harassment against the petitioner herein.

6. It is also the submission of the learned counsel that soon after, on

a particular day, the respondent No. 3 brought in about 30-40 members of certain NGOs and in the presence of students and the school faculty, the petitioner was abused and physically assaulted. In this regard, an FIR was lodged by the petitioner herein on 07.12.2021 before the Officer-in-Charge, Umiam P.S, Ri-Bhoi District. As a counterblast, the respondent No. 3 as complainant also filed an FIR, alleging sexual harassment by the petitioner, for which a case was registered as Ri-Bhoi Women P.S. Case No. 83 (12) of 2021 under Section 354A (1)(IV)/509 IPC.

7. The said FIR on being registered, investigation was launched and the Investigating Officer (I/O) had filed the charge sheet before the Court of the learned Chief Judicial Magistrate, Nongpoh upon which, taking cognizance of the same, the Court has summoned the petitioner to answer to the charges. It is at this stage, that the petitioner has approached this Court, alleging, inter alia, that the allegations made against him are frivolous and has no substance in any manner and that the complainant/respondent No. 3 has filed the complaint only on being aggrieved by his correction of her character and conduct.

8. Terming the continuation of the proceeding as futile, wherein in the final analysis, no case would have been made out against the petitioner, the learned counsel has submitted that this Court may be pleased to exercise its inherent power under Section 482 Cr.P.C and to quash the said

proceedings before the Court of the learned Chief Judicial Magistrate, Nongpoh.

9. Per contra, the learned GA has submitted that this petition is not qualified to be taken up under Section 482, considering the fact that there is no evidence of any abuse of the process of the Court and that the matter has to be taken up by the concerned Court to its finality. It is therefore, submitted, that this petition may be dismissed at the threshold.

10. On consideration of the submissions made and on perusal of the petition and the annexures thereto, the reading of the charge sheet would reveal that a complaint has been made, alleging sexual harassment, for which the petitioner or rather the accused has to face trial either to be found guilty or to be exonerated. Therefore, at this stage, it would not be fit and proper for this Court to short circuit the process and to quash the proceedings where apparently, no ingredient of Section 482 has been made out, inasmuch as, there has occurred no abuse of the process of the Court and indeed, it would be for ends of justice that the matter proceed before the Trial Court.

11. As far as exercise of power under Section 482 Cr.P.C is concerned, the High Court is well within its jurisdiction, on an appraisal of the facts and circumstances of a particular case, to come to a conclusion whether the three basic ingredients found, that is, to give effect to any

order under this Code, or to prevent abuse of the process of any Court and finally, to secure the ends of justice. However, time and again, it has been reminded that this inherent power is to be exercised circumspectly.

12. In this regard, in the case of *State of Haryana & Ors v. Bhajan Lal & Ors: 1992 Supp (1) SCC 379* at para 103, the Hon'ble Supreme Court has held that:

“103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

13. As observed above, the Trial Court had proceeded with the matter in accordance with law and in the light of what has been alleged and also based on the prima facie findings of the I/O, it would be, but natural that the guilt or innocence of the petitioner has to be determined at the trial. This is certainly not one of those rarest of rare cases for this Court to resort to exercise of power under Section 482.

14. In view thereof, this petition is dismissed as devoid of merits, the same is hereby disposed of accordingly. No costs.

15. Before parting, this Court would call upon the Investigating Authority to ensure that the investigation as regard the FIR filed by the

petitioner, though not related to the present petition, be processed expeditiously.

Judge

Meghalaya
01.05.2023
"D. Nary, PS"

