

Serial No. 19
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Rev.P. No. 12 of 2022

Date of Order: 09.11.2023

Shri. Paul Leong

Vs.

State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. T.T. Diengdoh, Sr. Adv. with
Mr. C.C.T. Sangma, Adv.

For the Respondent(s) : Ms. R. Colney, GA.
Ms. I. Lyngwa, GA. vice
Mr. N.D. Chullai, AAG.

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

ii) Whether approved for publication in press: Yes/No

ORAL:

1. Heard Mr. T.T. Diengdoh, learned senior counsel for the petitioner who has pointed out that in course of these proceedings, an order dated 29.08.2023 was passed by the Hon'ble Supreme Court in the case of Zunaid v State of U.P. and Others reported in 2023 SCC OnLine SC 1082. By the said order, the learned senior counsel has led this Court to the observation made at para 11 which reads as follows:

“11. In view of the above, there remains no shadow of doubt that on the receipt of the police report under Section 173 Cr.P.C., the Magistrate can exercise three options. Firstly, he may decide that there is no sufficient ground for proceeding further and drop action. Secondly, he may take cognizance of the offence under Section 190(1)(b) on the basis of the police report and issue process; and thirdly, he may take cognizance of the offence under Section 190(1)(a) on the basis of the original complaint and proceed to examine upon oath the complainant and his witnesses under Section 200. It may be noted that even in a case where the final report of the police under Section 173 is accepted and the accused persons are discharged, the Magistrate has the power to take cognizance of the offence on a complaint or a Protest Petition on the same or similar allegations even after the acceptance of the final report. As held by this Court in Gopal Vijay Verma v. Bhuneshwar Prasad Sinha and Others, as followed in B. Chandrika v. Santhosh and Another, a Magistrate is not debarred from taking cognizance of a complaint merely on the ground that earlier he had declined to take cognizance of the police report. No doubt a Magistrate while exercising his judicial discretion has to apply his mind to the contents of the Protest Petition or the complaint as the case may be.

2. In view of the said observation, the learned senior counsel has submitted that he may be allowed to withdraw this instant petition with liberty to file a fresh complaint before the Magistrate, if so advised.
3. Ms. R. Colney, learned GA appearing on behalf of the State respondent has no objection to the prayer made.
4. Accordingly, without going into the merits of this matter, as

prayed for, this petition is hereby dismissed as withdrawn with liberty sought allowed.

5. Registry is directed to return back the Lower Court case record.

Judge

Meghalaya
09.11.2023
"D. Nary, PS"

