

**HIGH COURT OF TRIPURA
AGARTALA
CRL. PETN. NO.6 OF 2024**

Shri Biplab Debnath

.....**Appellant(s)**

Versus

The State of Tripura and anr.

.....**Respondent(s)**

For the Petitioner(s) : Mr. B.N. Majumder, Sr. Advocate.
Mr. G. Saha, Advocate.
Mr. A. Chakraborty, Advocate.

For the Respondent(s) : Mr. S. Ghosh, Addl. P.P.

Date of hearing and delivery of
Judgment & Order : 26.06.2024

Whether fit for reporting : YES/NO.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R(ORAL)**

This present petition has been filed under Section 482 of Cr.P.C. for quashing/cancelling/setting aside the complaint dated 28.06.2022 and order dated 16.09.2022, whereby the cognizance of the offence has been taken on the aforesaid complaint case registered as CR 162 of 2022, pending before the learned Court of Judicial Magistrate, Court No.2, West Tripura.

2. The brief fact of this case is that the petitioner is made an accused of CR Case No. - 162 of 2022, pending before the Judicial Magistrate, 1st Class, Court No. - 2, wherein, cognizance has been taken against the petitioner and 2 (two) other accused i.e.

Smt. Nani Bala Debnath and Smt. Gouri Debnath on 16-09-2022 and accordingly, summons were issued on the allegation that the deceased father of the petitioner and Smt. Gouri Debnath husband of Smt. Nani Bala Debnath i.e. late Nepal Ch. Debnath had taken a loan of Rs.88,000/- from the complainant but he failed to refund the said amount. The learned Trial Court took cognizance of the offence and issued summons. Challenging the order of cognizance dated 16.09.2022 and the order of issuing the summons, this present criminal petition has been filed.

3. Heard Mr. B.N. Majumder, learned Sr. counsel assisted by Mr. G. Saha, learned counsel and Mr.A. Chakraborty, learned counsel appearing for the petitioner as well as Mr. S. Ghosh, learned Addl. P.P., appearing for the State-respondent.

4. Mr. Majumder, learned Sr. counsel appearing for the petitioner-accused submitted that the father of the petitioner has taken the loan but the cognizance of the offence has been taken on his son, married daughter and wife. The same does not stand in the eye of the law. Stating thus, learned Sr. counsel urged this Court to quash the entire proceeding.

5. On the other hand, Mr. S. Ghosh, learned Addl. P.P., submits that the complainant's action is absolutely wrong in the eye of the law.

6. Heard both sides and perused the evidence on record.

7. The grievances are against the father of the petitioner herein i.e., late Nepal Ch. Debnath and no allegation has been made out against the petitioner. Further for any criminal act committed by the father, the son, daughter and his wife cannot be put in jeopardy. Accordingly, the present writ petition is allowed, the impugned criminal proceeding pending in Court of Judicial Magistrate, Court No.2, West Tripura vide case No. CR Case No.-162 of 2022 is set aside against the petitioner, the married daughter and wife of late Nepal Ch. Debnath.

8. With the above observation and direction, this present petition is dismissed. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

suhanjit

RAJKUMAR
SUHANJIT
SINGHA

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SUHANJIT SINGHA
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