

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. Petn.14 of 2024

- 1. Mr. Deep Kalra**, aged about 55 years,
Founder, MakeMyTrip;
- 2. Mr. Rajesh Magow**, aged about 54 years,
Co-Founder, MakeMyTrip;
- 3. Mr. Mohit Kabra**, aged about 53 years,
Chief Financial Officer, MakeMyTrip;
- 4. Mr. Raj Rishi**, aged about 45 years,
Chief Business Officer- Corporate Travel, MakeMyTrip;
- 5. Mr. Sanjay Mohan**, aged about 58 years,
Chief Technology Officer, MakeMyTrip;
- 6. Mr. Saujanya Shrivastava**, aged about 50 years,
Chief Operating Officer- Flights, MakeMyTrip;
- 7. Mr. Vipul Prakash**, aged about 56 years,
Ex-Chief Operating Officer, MakeMyTrip;
- 8. Mr. Yuvaraj Srivastava**, aged about 53 years,
Chief Human Resource Officer, MakeMyTrip;

*Having their Office at 19th Floor, Tower B, Building
No.5, Level 19, DLF Epitome, near DLF Cyber City,
DLF Phase 2, Sector 24, Gurugram, Haryana- 122002.*

.....PETITIONERS.

Versus

1) The State of Tripura

2) Shri Chandan Debnath, son of late Ramani Debnath,
resident of Chandrapur, P.O. East Agartala, District-
West Tripura, PIN-799008.

.....RESPONDENTS.

For Petitioner(s)	:	Mr. S. Lodh, Advocate. Mr. Subham Majumder, Advocate.
For Respondent(s)	:	Mr. Samrat Ghosh, Addl. PP Mr. RG Chakraborty, Advocate.
Date of hearing and Delivery of judgment and order	:	23.04.2024.
Whether fit for reporting:		YES

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment and Order(Oral)

The present criminal petition is filed under Section 482 of the Code of Criminal Procedure, 1973, for invoking inherent powers of this Court for quashing/setting aside the impugned order dated 01.09.2021 passed by the learned Judicial Magistrate, 1st Class, Court No.8, Agartala, West Tripura in case No. C.R. 36 of 2021 and further for quashing the proceeding of C.R.36 of 2021 pending before the learned Court of Judicial Magistrate , 1st Class, Court No.8, Agartala, West Tripura.

[2] The case of the petitioners in brief is that the respondent No. 2 booked hotels for Puri and Goa through MakeMyTrip and he alleged that after going to Puri hotel, he was not provided with vehicle and accordingly he had to stay in the waiting room of Puri railway station. On reaching Goa, he found there was no booking in his name in the hotel. Narrating aforesaid incident, he lodged a complaint before the learned Chief Judicial Magistrate, West Tripura, Agartala and learned CJM sent the complaint under Section 156(3) of Cr.P.C for investigation before Officer-in-Charge, West Agartala PS. After investigation, police submitted final report. Being aggrieved, the respondent No. 2 filed an application for conducting the trail and learned Magistrate vide impugned Order dated 01.09.2021, took cognizance and issued summon upon the petitioners. The order of cognizance dated

01.09.2021 passed in CR 36 of 2021 by the Judicial Magistrate, 1st Class, Agartala, West Tripura is extracted as under:

".....Complainant is present and filed hajira through his Ld. Adv.

Today is fixed for examination U/S 200 CrPC.

Complainant is examined u/s 200 of Cr.P.C.

Cognizance of offence u/s 406/417/420/511/34 of IPC is taken against accused persons Deep Kalra, Rajesh Maguw, Mohit Kabra, Ansuman Bapna, Dipak Kuli, Ritwik Khare, Bhupendar Yadav, Raj Rishi, Sanjoy Mohan, Soujanya Shrivastav, Vipal Prakash and Yuvraj Shrivastav.

Complainant is asked to file requisites within 7 days.

Issue the same if requisites are filed in proper form and found correct.

Fix 24.11.2021 for S/R...."

[3] Thereafter, challenging the order dated 01.09.2021, the petitioners filed one revision petition before the learned Sessions Judge, West Tripura, Agartala and same was registered and marked as Criminal Revision 17 of 2022. Learned Addl. Sessions Judge, West Tripura, Agartala, Court No.2 vide judgment and order dated 12.12.2023, allowed the revision petition in part with the following observation:

".....10. The aforesaid order nowhere reflects that the Ld. Magistrate was satisfied that there were prima-facie materials to convince her for taking such cognizance and so the impugned order does not pass the test of law.

11. In view of the aforesaid discussion and analysis the impugned order cannot be allowed to be sustained and accordingly the same is set aside. However, the matter is remanded back to the learned trial court for deciding the matter of taking cognizance afresh. The revision is allowed partly.

12. L.C. record be returned along with a copy of this order.

This case stands disposed of on contest...."

[4] The respondent No.2, challenging the judgment and order dated 12.12.2023 filed a Criminal Petition before this Court and same was registered as Crl. Petn. 03 of 2024 and this Court vide Order dated 05.03.2024, set aside the judgment and order dated 12.12.2023 with the following observation:

".....The deponent of the affidavit before the Court below Mr. Parag Chahal is not the party who is contesting the matter. Hence the order impugned dated 12.12.2023 is accordingly set aside as the same is erroneous and contrary to the procedure.

Criminal petition ordered accordingly and thus disposed of. Stay if any stands vacated. Pending application(s), if any also stands closed."

[5] According to the petitioners, on perusal of the complaint it is found that there is no ingredient of criminal offence. The entire allegations are based on deficiency of service, which is purely civil in nature and on the basis of the allegations contained in complaint, no criminal case can be initiated, Thus, the petitioners jointly filed the instant petition for quashing the criminal proceeding. The reliefs sought for by the petitioners in the instant criminal petition are as under:

- i) Issue a Rule calling upon the respondents to show cause as to why the impugned Order dated 01.09.2021 passed in C.R. 36 of 2021 by the learned Judicial Magistrate, First Class, Court No.8, Agartala, West Tripura, and the complaint shall not be quashed/set aside;
- ii) Call for the records appertaining to this petition;
- iii) In the interim pass an order staying the further proceeding of CR 36 of 2021, pending before the by the Ld. Judicial Magistrate First Class, Court No.8, Agartala, West Tripura till disposal of the instant petition.....

[6] Mr. S. Lodh, learned counsel appearing for the petitioners submit that the complainant, respondent No.2 herein booked hotels for Puri and Goa through 'MakeMyTrip' and according to him, he did not get the service thereof, and for this deficiency of service, he filed criminal case, but he did not implead MakeMyTrip company as an accused. He impleaded the Directors and Executives of 'MakeMyTrip' as accused persons but, did not say anything about their role in the transaction or even make any allegation in respect of the conduct of such directors and executives in his criminal complaint vide case No. C.R.(Misc.)

01/2020 dated 02.01.2020 lodged before the Court of learned Chief Judicial Magistrate, West Tripura, Agartala.

[7] Mr. Lodh, learned counsel for the petitioners further contends that learned Court below failed to appreciate the fact that the issue at hand was essentially of a civil nature where the appropriate remedy was a consumer complaint, but instead, the complainant chose to file a criminal complaint and that too without alleging any specific role to any of the accused persons. It is further contended that learned Court below without appreciating the same, vide impugned order dated 01.09.2021, took cognizance and issued summons upon the petitioners and others. He, therefore, submits that the impugned order dated 01.09.2021 passed in CR 36 of 2021 by the Judicial Magistrate, 1st Class, Agartala, West Tripura as well as the complaint lodged by the respondent No.2 is not sustainable in law and the same is liable to be quashed.

[8] On the other hand, Mr. RG Chakraborty, learned counsel appears on behalf of the respondent No.2 and opposes the submission made by the learned counsel for the petitioners.

[9] Heard the submissions made at the Bar. Perused the record.

[10] In the criminal complaint lodged before the Court below vide case No. C.R.(Misc.) 01/2020 dated 02.01.2020, the names and addresses of the accused persons have been shown as under:

"3) Name and addresses of Accused Person's.

(1). Mr. Deep Kalra,
Chairman & Group CEO, MakeMyTrip.

(2). Mr. Rajesh Magow
Co-Founder & CEO- India, MakeMyTrip.

(3). Mr. Mohit Kabra,
Chief Financial Officer, MakeMyTrip.

(4). Mr. Anshuman Bapna,
Chief Product Officer, MakeMyTrip.

(5). Mr. Deepak Tuli,
Chief Business Officer-Growth Business,
MakeMyTrip.

(6). Mr. Ritwik Khare,
Senior Vice President & Head Business Development- Hotel,
MakeMyTrip.

(7). Mr. Rupendra Yadav, Chief Business Officer- Holidays,
MakeMyTrip.

(8). Mr. Raj Rishi
Chief Business Officer- Corporate Travel,
MakeMyTrip.

(9). Mr. Sanjay Mohan,
Chief Technology Officer,
MakeMyTrip.

(10). Mr. Saujanya. Shrivastava,
Chief Marketing Officer,
MakeMyTrip.

(11). Mr. Vipal Prakash,
Chief Operating Officer,
MakeMyTrip.

(12). Mr. Yuvaraj Srivastava,
Chief Human Resource Officer,

AI are of MakeMyTrip India Pvt. Ltd,
DLF- Building No-5, Tower-B,
DLF Cyber City, DLF Phase-2,
Sector-25, Gurugram, Haryana,
Pin-122002, India. Phone-0124 4628747, 0124 5045105
0124 2898000, 0124 4628765/0124 5045118 Fr

(13). The Proprietor,
of OYO 22728 All Season Beach Classic Hotel,
286, Near Tarcar Ice Factory, Calangute, Goa,
P.S- Calangute, Dist- Calangute, GOA, India."

[11] On perusal of record, it is seen that the complainant in his complaint highlighted his grievance that he did not get service from 'MakeMyTrip(India) Pvt. Ltd.,' but, the said company has not been made necessary party in the complaint as well as in the criminal proceedings. In the said compliant, it is also not made clear how the accused persons are involved in not providing service to the petitioner incurring money from him. Since 'MakeMyTrip(India) Pvt. Ltd.,' has not been made the relevant and

necessary party in the criminal complaint lodged by the complainant i.e. respondent No.2 herein, the accused persons shown as party under the personal capacity, cannot be entertained and the said complaint has become *de facto*. Thus, the order dated 01.09.2021 passed in CR 36 of 2021 by the Judicial Magistrate, 1st Class, Agartala, West Tripura as well as the complaint lodged by the respondent No.2 is not sustainable in the eye of law and is liable to be set aside and accordingly the same is ordered.

[12] In view of the above, the present petition filed by the petitioners is allowed. However, it is open to the respondent-complainant to avail remedies as per law.

As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

JUDGE

Sabyasachi G.

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GHOSH

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