

**HIGH COURT OF TRIPURA
AGARTALA**

CRL.REV.P.No.28 OF 2024

Lal Bhanu

W/O: Hannan Miah
Of: North Durganagar,
P.S.-Khowai
Dist. Knowai, Tripura

-----Revision Petitioner(s)

Versus

The State of Tripura

----- Respondent(s)

For Petitioner(s) : Ms. P. Chakraborty, Adv.

For Respondent(s) : Mr. R. Datta, P.P.

Date of Hearing
& delivery of : 01.05.2024
Judgment and Order

Whether fit for
Reporting : NO

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order(Oral)

Heard Ms. P. Chakraborty, Learned Counsel for the petitioner and also heard Mr. Raju Datta, Learned P.P. representing the State-respondent. The petitioner has preferred this revision petition under Section 397, read with Section 401 of Cr.P.C. challenging the order dated 04.03.2024 passed by Learned Additional Sessions Judge, Khowai, Tripura, in connection with case No. S.T.(T-1) 14 of 2021. By the said order, Learned Court below rejected the prayer of the petitioner for simultaneous trial of both the cases as prayed for.

02. In course of hearing, Learned Counsel for the petitioner submitted that the present petitioner and others is

the accused of the aforesaid case bearing No.S.T.(T-1) 14 of 2021 which was registered on the basis of an FIR laid by one Mahim Debnath, son of late Jamini Debnath, Durganagar, P.S. Khowai, District Khowai. The allegation in the FIR was that on 12.02.2020 in the night to his adjacent neighbouring house Hannan Miah, some persons from Bangladesh assembled and on hearing their loud voice, to see the matter, his son Ganesh Debnath and another neighbourer Suman Nath Sharma when proceeded to the residence of Hannan Miah, that time the accused persons as stated in the FIR, armed with deadly weapons like dao, chased his son and his friend and after that the accused persons in front of the residence of one Joydeb Roy at Uttar Durganagar, nearby Mosque, struck four times dao blow on the head, and also on the back, left hand and left leg and caused bleeding injury to him and they also assaulted and attacked Suman Nath Sharma for which he sustained stitch injury. Immediately, after the incident, his son and friend were shifted to Kulai Hospital by the neighbouring persons and considering their acute condition, they were referred to GBP Hospital, Agartala where they were struggling for surviving. It was further stated in the FIR that the accused persons were involved in smuggling and for that they have caused harm to his son and his friend. Hence, he laid the FIR. Accordingly, O.C., Khowai P.S. on 13.02.2020 at about 1605 hours registered Khowai P.S. case No.2020/KHW/033 under Section

326/307/34 of IPC and after completion of investigation, the I.O. laid charge-sheet against the present revision petitioner and others and on commitment the case is now pending before the Court of Learned Additional Sessions Judge, Khowai. Similarly, on 11.03.2020 the present petitioner laid an FIR to O.C. Khowai P.S. alleging inter alia that on 12.02.2020 in the night at about 10.30 P.M. Ganesh Debnath, Suman Nath Sharma, Prabir deb, Sourav Kanti Paul, Saraj Chandra Deb and Prantosh Roy armed with dao, spear, stick entered into her house, caught hold her and dragged her outside the room and outraged her modesty, for which she was compelled to take shelter to a nearby place. After that police came and she laid the FIR on 13.02.2020 but no case was registered by police and thereafter, on 11.03.2020, O.C., Khowai P.S. registered KHW PS case No.49 of 2020 under Section 448/323/354/379/427/34 of IPC and laid charge-sheet against said Ganesh Debnath and others and the case is presently pending before the Court of Learned J.M. 1st Class, Khowai for evidence. Learned Counsel further submitted that both the cases arose out of the same incident and time, so, both the cases should be heard and tried by same Court at the same time and shall dispose of by a common judgment. But the Learned Court below did not consider the same and passed an erroneous order.

03. Per contra, Learned P.P., Mr. Raju Datta, representing the State-respondent referring the documents

annexed with the petition, submitted that the petition is not at all maintainable because the subject matter of both the cases are different (cause of action, time etc.), so, this Court by exercising the power of revision cannot grant any relief to the petitioner and prayed for dismissal of this petition.

04. I have heard both the sides and perused the order dated 14.03.2024 passed by Learned Additional Sessions Judge, Khowai in connection with case No. S.T.(T-1) 14 of 2021. It appears that another alleged connected case bearing No.PRC(WP) 121 of 2020 is now pending before the Court of Learned J.M. 1st Class, Khowai and case is at the stage of recording of evidence. Learned Court below after hearing both the sides came to the observation that the place of occurrence of both the cases were different and there was a time gap of thirty minutes between both the cases as mentioned in the ejahar, so, Learned Court below came to the observation that both the cases cannot be said to be case and counter case and there is no ground to club both the cases together and to proceed for holding of analogous trial and thus rejected the prayer.

05. On perusal of the FIR of both the cases, it appears that although the alleged incident took place on the same date but there was a time gap of thirty minutes and the place of occurrence of both the cases are totally different and also in different places.

06. So, as alleged by the Learned Counsel for the petitioner, the subject matter of both the cases cannot be said to same and arises out of the same incident and cannot be said to be case and counter case. In Cr.P.C. there is no any specific definition for "counter case" but from the conventional practice, it is the settled position that if the parties are same and the case and counter case are arising out of the same incident and the same time then it can be treated as counter case and for the sake proper administration of justice, it is always suggested that both the cases should be heard and tried at the same time and be disposed at the same time either by a common judgment or by two different judgments.

07. In **Sudhir and Others vs. State of M.P.** dated 02.02.2001 reported in **(2001) 2 SCC 688**, Hon'ble the Supreme Court in para No.8 observed as under:

"It is a salutary practice, when two criminal cases relate to the same incident, they are tried and disposed of by the same court by pronouncing judgments on the same day. Such two different versions of the same incident resulting in two criminal cases are compendiously called "case and counter case" by some High Courts and "cross cases" by some other High Courts. Way back in the nineteen hundred and twenties a Division Bench of the Madras High Court (Waller and Cornish, JJ) made a suggestion (*Goriparthi Krishtamma*, In re- 1929 MWN 881 that "a case and counter-case arising out of the same affair should always, if practicable, be tried by the same court; and each party would represent themselves as having been the innocent victims of the aggression of the other."

Perused the same.

08. But here in this case, after going through the relevant records, it appears to me that the petitioner has failed to satisfy the Court that there is need for holding analogous trial of this present case along with PRC (WP) 121 of 2020 which is now pending before the Court of Learned J.M. 1st Class, Khowai. So, I do not find any scope to entertain the petition filed by the revision petitioner and the same is not maintainable.

08. In the result, the petition filed by the petitioner is hereby not maintainable and accordingly, stands rejected being devoid of merit. However, after hearing both the sides, it is ordered that both the Courts below shall make all endeavour to dispose of the cases within a period of six months from the date of receipt of this copy of this order/judgment. With this observation, the case is disposed of on contest.

Pending application(s), if any, also stands disposed of.

JUDGE

**SABYASACHI
BHATTACHARJEE**
Purnita

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