

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. Petn.24 of 2024

Md. Chunu Miah and another
..... **Petitioner(s)**

Versus

The State of Tripura and another
..... **Respondent(s)**

For Petitioner(s) : Mr. Samar Das, Advocate.

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

HON'BLE MR. JUSTICE T. AMARNATH GOUD

ORDER

01.07.2024

Heard Mr. Samar Das, learned counsel for the petitioners.
Also heard Mr. S. Ghosh learned Addl. PP for the State.

[2] This criminal petition under Section 482 of the Code of Criminal Procedure, 1973 has been filed seeking following reliefs:

- "1. Admit this petition
2. Call for records
3. Issue notice and
4. After hearing the parties quashing/setting aside the proceeding initiated upon the written complaint which does not disclose any criminal offence rather a civil proceeding filed by the Private Respondent No-2 vide case no- CR 68 OF 2024 under section 420/419/34 of the Indian Penal Code pending before the Judicial Magistrate 1st Class, Unakoti District, Kailashahar.

AND

A petition under section 482 of the Code of Criminal Procedure, 1973 for quashing/ setting aside the order dated 08-04-2024 and order dated 13-05-2024 passed by the Ld. Judicial Magistrate 1st Class, Kailashahar, Unakoti Tripura whereby the Ld. Court without following the statutory

provision of section 200 of Cr. P.C. i.e. without examining the complainant cognizance has been taken against the petitioners.....”

[3] The brief facts of the case as contended in the instant petition are that Respondent No-2 submitted one written complaint before the learned Chief Judicial Magistrate, Kailashahr, Unakoti Tripura alleging inter alia that on 18-12-2020 petitioner no-1 and one Surya Prasad Dhar made a registered deed of measuring 0.08 satak of land in favour of the petitioner no-2 in the name of providing old aged pension. It is alleged that one Surya Prasad Dhar was the staff of Sub-Registrar office. It is also alleged that all the petitioners herein intentionally conspiring together to take the landed property of land from the Respondent No-2 and thereafter Petitioner No-1 recorded the landed property in favour of the petitioner No-2. Though Petitioner No-1 agreed to return a part of land to the Respondent no-2 but the Petitioner No-2 instead of that filed a Title Suit vide No-05 of 2024 and Civil Misc.(Inj.) 05 of 2024 before the Civil Judge Jr. Division. Learned Chief Judicial Magistrate, Kailashahr Unakoti Tripura registered the said Complaint petition as CR 68 of 2024 and send the record for disposal in accordance with Law. The next date was fixed on 08-04-2024 for an order. Accordingly on 08-04- 2024 Ld. Judicial Magistrate 1st Class, Kailashahr, Unakoti District peruse the case and took cognizance of the offence punishable under section 420/419/34 of the Indian Penal Code.

[4] On receiving the summon from the learned Trial court one Surya Prasad Dhar appeared before the Trial court on 13-05-2024 and granted bail but the other petitioner sought adjournment executing vokatnama on the ground of illness and out of station. Accordingly next date was given on 27-06-2024 for examination of the complainant under section 200 of Cr.P.C. and appearance.

[5] Mr. Samar Das, learned counsel for the petitioners submits that learned Trial court failed to apply the judicious mind and failed to show any explanation, whether any offence at all committed by the petitioners herein at the time of taking cognizance of offence. He, further

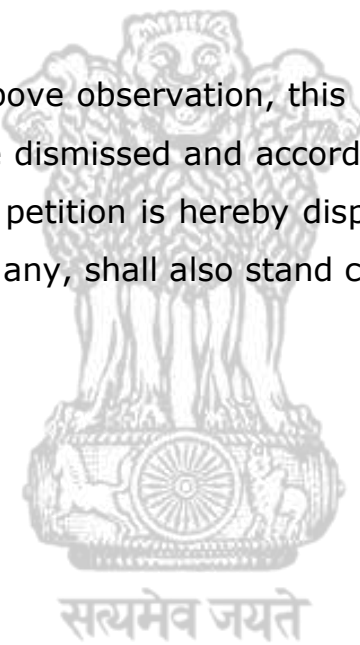
submits that from the allegation, it is clear that no criminal offence can come out rather a civil suit and respondent No.2 intentionally turned civil offence, if any under the colour of criminal case. He, therefore, urges this Court to set aside the impugned proceeding pending before the court below.

[6] Heard learned counsel for the parties. Perused the record.

[7] Having heard the submission of the learned counsel for the parties and on perusal of record, this Court is of the opinion that there are allegations and counter-allegations made by both the parties and this Court cannot go into the disputed questions of fact which are pending before the learned Court below. It will be appropriate if both the parties face trial before the Court below in connection with the impugned proceeding.

With the above observation, this instant petition filed by the petitioners is liable to be dismissed and accordingly, the same is ordered. Resultantly, the present petition is hereby disposed of and miscellaneous application(s) pending if any, shall also stand closed.

JUDGE



Sabyasachi G.

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GHOSH

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