

**HIGH COURT OF TRIPURA  
AGARTALA**

**Crl. Petn.27 of 2023**

**Kanishk Sinha,**

son of late Bimal Bihari Sinha, resident of:122, Bidhanpally, P.O. Garia, Kolkata 700084, District:- Kolkata, West Bengal presently at District- West Tripura aged about 43 years, by profession Advocate and Scientist having office at SKP Group Building, 132A Shyama Prasad Mukherjee Road, Police Station: Bhowanipur, Kolkata- 700026

.....**Petitioner**

**VERSUS**

- 1. The State of Tripura** service through the Public Prosecutor, High Court of Tripura;
- 2. East Agartala Police Station** service through the Officer In Charge, R7JP+XH2, Banamalipur, Indranagar, Agartala, Tripura 799001; and
- 3. Office of the Joint Transport Commissioner,** Paribahan Bhawan, Agartala.

..... **Respondents**

|                                                    |                                                  |
|----------------------------------------------------|--------------------------------------------------|
| For Petitioner(s)                                  | : Mr. Kanishk Sinha, Advocate (party in person). |
| For Respondent(s)                                  | : Mr. Raju Datta, PP.                            |
| Date of hearing and delivery of judgment and order | : 12.01.2024                                     |
| Whether fit for reporting                          | : Yes                                            |

**HON'BLE MR. JUSTICE T. AMARNATH GOUD**

**JUDGMENT & ORDER (ORAL)**

Heard Mr. Kanishk Sinha, learned advocate party-in-person through video conferencing. Also heard Mr. Raju Datta, learned PP representing the State.

**[2]** The present criminal petition is filed under section 482 of the Code of Criminal Procedure praying for quashing of First Information Report dated 15.05.2018 under Section 448/353 of the Indian Penal Code registered at East Agartala Police Station being No. EAG085 dated, 15.05.2018 against the petitioner and impugned order no.27 dated, 20.02.2023 passed in PRC (SP)

32 of 2023 (arising out of East Agartala PS Case No. EAG085 dated, 15.05.2018) as time barred.

**[3]** Brief facts of the case of the petitioner is that he is an inventor and patent holder of technology applied for Eco Friendly Battery operated vehicles having Patent No.254875 and several other inventions in the field of renewable energy. He enrolled as an Advocate in the year 2021 with the Bar Council of West Bengal. The petitioner filed two writ petitions before this High Court being W.P.(C) No.177 of 2017 and W.P.(C) No.86 of 2017 against the sale of E-Rickshaw illegally in the State of Tripura in violation of Motor Vehicles Act 1988 as amended and in violation of various notifications issued by the Central and State Government infringing the patent right of the petitioner. On 28.03.2017, upon hearing the counsels for the parties, Hon'ble Single Judge has passed the following order:

**".....11. Having observed thus and directed accordingly, these writ petitions are allowed to the extent as indicated above. However, this decision will have nothing to do with the writ petition filed by the petitioners in respect of their patent right before various High Courts. It is made further clear that if any violation is noticed even by the petitioners, they can file the complaint to the Joint Transport Commissioner directly and who in turn will take appropriate action on the said complaint. There shall be no reluctance to take punitive action against the persons who violate law....."**

**[4]** In compliance with the said order, the District Transport Officer, Kailashahar, Unakoti vide memo dated, 03.11.2017, suspended the dealership of one M/s Ramthakur Enterprises for selling of E-Rickshaw in Tripura. Thereafter, on 09.05.2018, the petitioner filed a complaint against the respondent no.3, Joint Transport Commissioner, Agartala before the Officer In Charge of East Agartala Police Station for sending threatening and defamatory messages via SMS.

It is stated by the petitioner that it was most surprising to him when he came to learn that Office of the Joint Transport Commissioner filed a

complaint on 15.05.2023 against the petitioner stating inter alia that on 24.04.2018, the petitioner entered in the office chamber of the Joint Transport Commissioner, respondent no.3 with some unknown antisocial and threatened him to act as per instruction of the petitioner else to be ready to face dare consequences and again on 04.05.2018, the petitioner forcefully entered in his office chamber with the unknown antisocial and threatened him in the same way. On the basis of the said complaint lodged by the Joint Transport Commissioner, an FIR was registered under Section 448 & 353 IPC against the petitioner at the East Agartala Police Station on 15.05.2018 and the Investigating Officer looked into the matter and subsequently, charge-sheet was also prepared against the accused petitioner. The complaint of the petitioner dated, 09.05.2018 was registered as counter First Information Report being East Agartala Police Station Case No.EAG089 u/s 506 of Indian Penal code against the respondent no.3, Joint Transport Commissioner. Thereafter, on the basis of the FIR dated 15.05.2018, charge-sheet was filed against the accused petitioner under Sections 448, 353, 506 of Indian Penal Code and accordingly, learned Chief Judicial Magistrate, Agartala, West Tripura took cognizance vide order no.27 dated, 20.02.2023 passed in PRC (SP) 32 of 2023, which is quoted as under:

**"....Case No. PRC(SP) 32 of 2023**

**20.02.2023**

**Order No.27**

**Received the case record from the Prosecution Section.**

**In this case charge sheet has been filed against the accused person namely Kanishka Sinha U/s 448, 353, 506 of IPC.**

**Perused the same.**

**Cognizance of offence punishable U/s 448, 353, 506 of IPC is taken against the accused person namely Kanishka Sinha.**

**Register the case as PRC(SP) case in my file.**

**The instant case is withdrawn from my file and is transferred to the Court of Ld. Judicial Magistrate 1st Class, Court No.2, Agartala, West Tripura, for disposal as per law.**

**Send the case record to the Court of Ld. Judicial Magistrate 1st Class, Court No.2, Agartala, West Tripura after observing all legal formalities...."**

**[5]** The petitioner approached this Court seeking the following reliefs:

**"i) Admit this petition;**

**ii) Issue a Rule calling upon the respondents as to why the impugned East Agartala Police Station being no: EAG085 dated: 15-05-2018 under Section 448/353/506 of IPC against the petitioner and cognizance order no:27 dated: 20.02.2023 passed in PRC (SP) No.32 of 2023 (arising out of East Agartala Police Station being no: EAG085 dated: 15-05-2018) under Section 448/353/506 of IPC by learned Chief Judicial Magistrate, Agartala, West Tripura shall be quashed;**

**iii) Ad interim order of stay of all further proceedings of PRC (SP) No:32 of 2023 arising out of East Agartala Police Station being no: EAG085 dated: 15-05-2018 against the petitioner..."**

**[6]** Now, since the petitioner is a practicing lawyer and apprehending arrest in the event if he is stepping in Tripura, accordingly, under the capacity of party-in-person, he sought leave of this Court and represented his case through virtual hybrid mode.

**[7]** Mr. Raju Datta, learned Public Prosecutor has contended that the present petition is not maintainable and the same is liable to be set aside. He has also submitted that, the petitioner is not entitled for any relief as he along with some antisocials entered into the office of the complainant and he threatened him to be ready to face dare consequences on many occasions. The investigation was also completed and charge-sheet was also filed and the matter is pending before the Court below. Accordingly, learned PP has prayed that the petitioner be directed to face the trial before the Court below.

**[8]** The case runs around the complaint filed by the complainant, Joint Transport Commissioner who is an Officer of the State and though he is not shown as a respondent, this Court considers that the complainant being a State Officer, the learned PP would suffice in representing the matter since the complaint is not made under the individual capacity and the so-called cause of

action is in the Office of the complainant. For the better appreciation of the facts, the contents of the complaint are extracted as under:

"GOVERNMENT OF TRIPURA  
OFFICE OF THE JOINT TRANSPORT COMMISSIONER,  
PARIBAHAN BHAVAN: AGARTALA

No.F.21(17)/JTC/MISC/CON/2018

Dated, the 15<sup>th</sup> May, 18

To  
The Officer-in-Charge  
East Agartala P.S.

Sub:- Complaint against Sri Kanishk Sinha S/O Bimal Behari Sinha resident of 122, Bidhanpalli, PO- Garia, Kolkata- 700084, West Bengal.

Sir,

This is to report that I have been serving as Joint Transport Commissioner in Transport Department, Government of Tripura having my office near Vevekananda Ground, Agartala, Tripura. The aforesaid Kanishka Sinha met me in my office about 3 years back and claimed that he is the inventor of E-Rickshaw and he is having patent right for that.

And he also claimed that for each E-Rickshaw sold in Tripura he should get Rs.10,000.00 as royalty money for his patent. But interestingly instead of claiming his royalty to the manufacturers of E-Rickshaw who supposed to must have taken his patent for manufacturing E-Rickshaw he wants me collect that aforesaid money from the dealers and give it to him. Since there is no provision in the Motor Vehicle Laws so I expressed my inability to collect money from the person seeking registration of E-Rickshaw.

Subsequently, he asked me to give notice to all manufacturers directing them to settle the patent issue with Sri Sinha. Here also I could not agree with him. After that he asked me to issue advisory to all the manufacturer for the same purpose. I expressed my inability on the same ground.

Now, he has adopted a policy to call me over telephone and threatened me for dare consequences and sent huge number of SMS with slang languages to make me tempted (copy enclosed).

(illegible), for the last 3 years, he has been actively refraining me and the Government from taking any positive steps for formulating a comprehensive policy for legalize plying of E-Rickshaws in the roads by serving several legal notices with frivolous claims and thereby virtually threatening all the Government corners for refraining from taking any positive steps in this regard which as acted adversely to the public money at large and valuable time of the Government.

On 24-04-2018, Sri Sinha entered in my office chamber with some unknown antisocial and threatened me to act as per his instruction else to be ready to face dare consequences. I had requested him not to behave like that. He left my office chamber on that day. On 04-05-2018 he again forcefully entered in my office chamber with the unknown antisocials and threatened me in the same way.

In view of the above, I would request you to take appropriate action against Sri Kanishk Sinha S/O. Bimal Behari Sinha resident of 122, Bidhanpalli, PO-Garia, Kolkata-700084, West Bengal.

Yours Sincerely,

Enclo:- 06 sheets.

(Asim Saha)  
Joint Transport Commissioner,  
Tripura, Agartala."

Upon the said complaint, the concerned Officer-in-Charge of the East Agartala Police Station, registered the FIR under Sections 448/353 IPC. As stated, investigation was completed and charge-sheet has been filed and the matter is pending on the file of learned Judicial Magistrate, 1<sup>st</sup> Class, Agartala, West Tripura.

**[9]** On perusal of the record placed by the learned PP and going through the charge-sheet, it appears that there is nothing more available on record to substantiate the contents of the complaint.

**[10]** For the purpose of examining the case under Section 482 of Cr.P.C., this Court feels that it is necessary to consider the Sections brought against the petitioner i.e. Sections 448, 353 and 506 IPC, which are extracted as under:

#### **Section 448 IPC-**

**"448. Punishment for house-trespass.—** Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both."

#### **Section 353 IPC-**

**"353. Assault or criminal force to deter public servant from discharge of his duty.-** Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

#### **Section 506 IPC-**

**"506. Punishment for criminal intimidation.-** Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

**if threat be to cause death or grievous hurt, etc.-** and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or [imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both".

In all the sections mentioned above, the punishment is up to three years.

**[11]** The petitioner drawn the attention of this Court on technical reasons that the case of the prosecution is hit by limitation in terms of Section 468 of Cr.P.C. and no cognizance can be taken against the accused person. Accordingly, for better appreciation of the fact, the provisions of Section 468 of Cr.PC are reproduced below:

**"468. Bar to taking cognizance after lapse of the period of limitation.-**

**(1) Except as otherwise provided elsewhere in this Code, no Court, shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.**

**(2) The period of limitation shall be—**

**(a) six months, if the offence is punishable with fine only;**

**(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;**

**(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.**

**(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment."**

A fair reading of the above Section, clearly supports the argument of the petitioner.

**[12]** Admittedly, in Sections 448, 353, 506 IPC, the punishment is less than three years. In such view of the matter, the period of limitation in terms of Section 468 of Cr.P.C. shields the petitioner since the date of complaint is on 15.05.2018 and the cognizance is taken in order No.27 passed in PRC (SP) 32 of 2023 (arising out of East Agartala PS Case No. EAG085 dated 15.05.2018) on 20.02.2023. On the said technical reasons, this criminal case needs interference of this Court as required under law.

**[13]** The contents of the complaint do not specifically indicate the time of the incidences when the petitioner had entered into the office of the

complainant and it is also not specified in what way the petitioner has threatened the complainant. It is further necessary to point out that in the office of the respondent, obviously there should be CCTV footages and staff-members and visitors and in such case, if any untoward incident had taken place, the complainant, at the first instance, himself could have initiated action against the petitioner. As per the complaint, it appears that on many occasions, the petitioner threatened the complainant but there is no such particulars indicated in the complaint. In the charge-sheet also, the Investigating Officer has not elaborated upon the issue with his investigation reports. This Court has no hesitation to say that the contents in the complaint bear no weightage.

In view of the above, this Court is of the opinion that since, the period of limitation in terms of Section 468 of Cr.P.C. has been lapsed, no cognizance can be taken upon the petitioner. Only on this point, without going into the merits on technical reasons of the case, the criminal petition is allowed. Resultantly, the FIR dated 15.05.2018 is quashed and subsequent cognizance order dated, 20.02.2023 passed in PRC (SP) 32 of 2023 is also set aside.

Resultantly, the present petition is allowed and accordingly disposed of. Miscellaneous application(s) pending, if any, shall stand closed.

**JUDGE**

*Sabyasachi. G.*

**SABYASACHI  
GHOSH**

 Digitally signed by SABYASACHI  
GHOSH  
Date: 2024.01.18 17:32:14 +05'30'