

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 347 of 2023

Date of Decision :21.05.2024

1. George M. Sangma
S/o Balbina M. Sangma,
R/o R.C. Mission, Baghmara
South Garo Hills District,
Meghalaya.
2. Smti. Balbina M. Sangma,
M/o Shri. George M. Sangma,
R/o R.C. Mission, Baghmara
South Garo Hills District,
Meghalaya.

...Petitioners

-Versus-

1. State of Meghalaya represented by Secretary,
Department of Home & Police Affairs,
Meghalaya, Shillong.
2. The Superintendent of Police,
West Garo Hills District,
Tura, Meghalaya.
3. Investigation Officer,
Tura Women P.S.
West Garo Hills District,
Tura, Meghalaya.
4. Officer-In-Charge,
Tura Women P.S.
West Garo Hills District,
Meghalaya.

5. Shri. Roberson K.Marak,
R/o Araimile Tura
P.O & P.S Araimile Tura
West Garo Hills District, Meghalaya.
6. Smti. Mackmie R. Sangma,
D/o Shri. Terot M. Sangma,
R/o Dakopgre, Tura,
P.O & P.S Tura,
West Garo Hills District, Meghalaya.

...Respondents.

Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Judge.

Appearance:

For the Petitioner/Appellant(s) : Mr. P.T.Sangma, Adv.

For the Respondent(s) : Mr. N.D.Chullai, AAG with
Mr. J.N.Rynjah, GA for R 1-4.
Mr. K.S.Kynjing, Sr. Adv. with
Mr. G.Syngkrem, Adv. for R 5.

i) Whether approved for reporting in Law journals etc: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT AND ORDER (ORAL)

1. The writ petitioner is before this Court with a complaint of excessive use of force by the Police in connection with his arrest in Tura Women P.S. Case No. 62 (08) 2023 under Sections 448/323/509/379/376/506 IPC

which has since been chargesheeted, and the writ petitioner also obtained bail in the meantime.

2. Mr. P.T.Sangma, learned counsel for the petitioner submits that on an FIR filed by the respondent No. 6, the writ petitioner who then had gone and surrendered before the Tura Women Police Station was assaulted by Police personnel, especially by the respondent No. 5, one Shri. Robertson K.Marak. The learned counsel further submits that after being beaten up, he was taken to the hospital for medical treatment and inspite of his complaints against the actions of the Police authorities, no action has been forthcoming which has compelled him to come before this Court by way of the instant writ petition.

3. Mr. N.D.Chullai, learned AAG assisted by Mr. J.N.Rynjah, learned GA on behalf of the respondent Nos. 1-4, has relied upon the affidavit filed on behalf of the respondent No. 2, wherein the FIR filed by the respondent No. 6 with regard to the actions of the writ petitioner, for which the case had been registered, as also the list of witnesses and the investigation status report have been annexed. It is submitted that as per the investigation status report, the statements of the complainants who were together with the writ petitioner were recorded under Section 161 CrPC, and from the statements so recorded, the witnesses did not witness the

assault as alleged by the petitioner as they were outside the Tura Women P.S.

4. It is further submitted that as per the medical report of the Medical Health Officer of Tura Civil Hospital, the injuries sustained by the writ petitioner are bite marks and there is no sign of any aggravated assault by the Police personnel. He therefore submits that the writ petitioner having not been able to substantiate the allegation of the violence committed by the Police Officers, the writ petition is without any basis.

5. Mr. K.S.Kynjing, learned Sr. counsel assisted by Mr. G.Syngkrem, learned counsel on behalf of the respondent No. 5 has also refuted the statements of the writ petitioner that respondent No. 5 not being an Officer of the Tura Women P.S. had entered the Police station and assaulted the writ petitioner. It is submitted that the FIR by respondent No. 6 had been filed on 09-08-2023 before the Officer I/C Araimile Beat House, West Garo Hills where respondent No. 5 is posted, and the same had been received and GD Entry made, whereafter, the same was forwarded to the Officer I/c. Tura Women P.S. He also supports the submission made by the learned AAG and submits that no case has been made out by the writ petitioner to warrant any directions.

6. Having heard learned counsel for the parties and from the materials as produced, it is seen that the FIR was lodged by the respondent No. 6

against the writ petitioner as to the physical assault and also the other actions by the writ petitioner which caused physical suffering to the respondent No. 6. On this FIR, a case was registered and the writ petitioner then surrendered before the Police Station, where the alleged assault occurred. From the injury report and from the other investigation status reports, apart from other materials that have been produced, no tangible materials have been produced to substantiate the fact that the writ petitioner was subjected to assault by the Police force, as claimed.

7. Further, it is seen that when the writ petitioner was produced before the Judicial Magistrate on 11-08-2023, he had informed the Court about the assault, for which the Court had then called the IO Incharge of the investigation for an explanation, and on receiving the explanation from the IO, the Court had passed an order on 14-08-2023 with a direction to the IO to ensure the safety of the arrestee, but had also observed that no clue could be seen that the Police did assault the writ petitioner on 10-08-2023.

8. Accordingly, in view of the inadequacy of the materials to substantiate the nature of injury to show that the petitioner had been assaulted by the Police while being arrested in connection with the said case, this Court at this stage cannot accede to the prayer made by the writ petitioner that action be taken against the respondent No. 5. As observed earlier, no materials exists to show that the petitioner had been subjected to

physical assault. However, it is made clear that in such matters, the respondents, especially the men in uniform are to abide by the set procedures in such matters and not resort to physical violence when undertrials or accused are in their custody.

9. For the foregoing discussions, the writ petition is closed and disposed of.

Judge

Meghalaya
21.05.2024
"Samantha PS"