



Serial No. 13
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Petn. No. 118 of 2023

Date of Order: 02.09.2024

Shri Flaming B. Marak
S/o. Shri P. Marak
R/o. Asananggre,
West Garo Hills, Meghalaya.

- Vs. 1. State of Meghalaya, rep by the
Secretary, Department of Home &
Police Affairs, Meghalaya, Shillong
2. The Superintendent of Police,
South Garo Hills District,
Baghmara, Meghalaya.
3. Investigating Officer, Chokpot
P.S, South Garo Hills District,
Meghalaya,
4. Shri Rikrak Ch. Sangma,
Officer-In-Charge, Chokpot PS,
South Garo Hills District,
R/o. Chokpot Bazar,
PO & PS- Chokpot. South Garo
Hills District, Meghalaya.
5. Shri Philon Ch. Marak,
R/o. Jetragre, Chokpot,
South Garo Hills District,
Meghalaya.
6. Shri Gojan M. Marak,
R/o. Jetragre, Chokpot,
South Garo Hills District,
Meghalaya.

.... Petitioner.

.... Respondents

Coram:



Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. P.T. Sangma, Adv.
For the Respondent(s) : Mr. N.D. Chullai, AAG with
Ms. R. Colney, GA. (R. 1-3)
None for (R. 4, 5 & 6)

ORDER

1. This is an application under Section 482 Cr.PC praying for quashing of the impugned FIR dated 07.07.2023 in Chokpot PS Case No. 2(07)2023 under Section 500 IPC.
2. Heard Mr. P.T. Sangma, learned counsel for the petitioner and Mr. N.D. Chullai learned AAG appearing for the State respondent No. 1, 2 and 3. None appears for the respondents No. 4, 5 and 6.
3. Perusal of the record reveals that consequent to the filing of the FIR dated 07.07.2023 by the respondent No. 4 and No. 5, the police registered the Chokpot PS Case No. 2(07)2023 under Section 500 IPC against the petitioner despite the fact that the offence alleged therein was in relation to a non-cognizable offence.
4. During the course of hearing, the learned AAG in his usual fairness submitted that the issue involved in this matter has also been decided by this Court vide order dated 13.02.2019 passed in Crl. Petn. No. 12 of 2018 by following the proposition of law laid down by the Apex Court in the case of *Subramanian Swamy v. Union of India (UOI) & Ors. (2016) 7 SCC 221*.



5. Paragraph 8 of the order dated 13.02.2019 in Crl. Petn. No. 12 of 2018 lays down as under:-

“ 8. It is clear that for offence punishable under Section 500 IPC neither FIR could be lodged for registration no Magistrate could order registration of the case by invoking power under Section 156(3) Cr.P.C. The aggrieved party may resort to other modes as may be prescribed in the Code of Criminal Procedure.”

6. In view of the above settled position of law, the investigation of the Chokpot PS Case No. 2(07)2023 under Section 500 IPC registered on the basis of an FIR dated 07.07.2023 lodged by the respondents No. 5 and 6 cannot be permitted to continue and the same is hereby quashed.

7. This criminal petition stands allowed.

Judge

Meghalaya

02.09.2024

“N.Swer, Stenographer, Gr-II”