

GAHC010130932023



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : Crl.Pet./585/2023**

RUPJYOTI MEDHI  
S/O CHANDRA MOHAN MEDHI  
VILL- KALUBARI  
P.S. NAGARBERA  
DIST. KAMRUP, ASSAM  
PIN NO. 781127

VERSUS

ASIF REZA ALI AND ANR  
REGIONAL MANAGER, STATE BANK OF INDIA,  
REGIONAL BUSINESS OFFICE, RBO -III, NAGAON, ASSAM, PIN-782001

2:THE STATE OF ASSAM

REP. BY THE PP  
ASSA

**Advocate for the Petitioner** : MR. M ALI, H R KHAN,MR. R ISLAM,MR J. ISLAM

**Advocate for the Respondent** : PP, ASSAM, SHAHJAHAN ALI (R-1),MR. K DAS (R-1)

**BEFORE**  
**HONOURABLE MRS. JUSTICE MALASRI NANDI**

**ORDER**

**Date : 24.09.2024**

Heard Mr. M.U. Mahmud, learned counsel for the petitioner. Also  
heard Mr. K. Das, learned counsel for the respondent No. 1 and Mr. B.B.

Gogoi, learned Additional Public Prosecutor for the respondent No. 2.

2. By filing this petition u/s 482 Cr.P.C., the petitioner has prayed for quashing the FIR dated 01/04/2019 vide Bokajan P.S. Case No. 68/2019 u/s 120(B)/409/420 IPC and the charge sheet vide no. 20/2022 dated 29/02/2022 submitted against the petitioner before the learned SDJM (M) Bokajan, Karbi Anglong in PRC case No. 124/2022.

3. The brief fact of the case is that an FIR has been lodged before the Additional DGP, Assam dated 01/04/2019 stating *inter alia* that the accused/petitioner who was serving as Assistant Manager (Credit) of SBI, Bokajan Branch misappropriated an amount of Rs. 11, 82, 840/- during the period of 16/11/2015 to 11/01/2016 and credited the amounts to 19 savings bank accounts of different account holders other than the beneficiary customers from the subsidy reserve fund account. Accordingly, a case was registered vide Bokajan PS case No. 68/2019.

4. The learned counsel for the petitioner submits that the allegation made against the petitioner in the FIR are totally false and fabricated. In the FIR, it has been alleged that the petitioner being the then Assistant Manager (Credit), of SBI, Bokajan Branch, misappropriated an amount of Rs. 11, 82, 840/- from the Branch subsidy account, but the petitioner being the Assistant Manager was entrusted with the duty of verifying documents of customers who were seeking subsidy loans and thereafter, recommend their names as eligible beneficiaries for sanctioning subsidy loan by the Branch Manager of the bank. Thereafter, on the basis of recommendation, the Branch Manager sanctioned loans to the beneficiaries.

5. It is further submitted that after sanctioning loans by the Branch Manager, the petitioner had no access in withdrawing from the beneficiary account. It was the Accounts Officer who after satisfactory verification allowed the withdrawal from various accounts. As such, the allegation of misappropriation of money by the petitioner is misconceived and without any basis. However, the petitioner has admitted that there was bonafide mistake in verifying the documents of the beneficiaries to find out the eligibility of loan. Due to dereliction of his duty, he was terminated from his service in the month of November, 2016.

6. Further submission of learned counsel of the petitioner is that in the FIR, the details of 19 savings bank account holders have been mentioned but the investigating officer did not examine those 19 savings bank account holders. The investigating officer has examined only the petitioner and submitted charge sheet against him. There is no whisper in the FIR that the monetary transaction had taken place at the instance of the petitioner. In this circumstance, the investigating officer should have examined the persons in whose accounts the transactions were taken place and in doing so, their passbooks, bank statements and bank details were also required to be seized. It is a matter of regret that without proper investigation the charge sheet has been laid against the petitioner.

7. According to the learned counsel for the petitioner, the alleged misappropriation had taken place during 16/11/2015 to 11/03/2016, while the petitioner was serving as Assistant Manager. But the FIR has been lodged on 01/04/2019 i.e., after 3 three years of the alleged misappropriation. It is further contended that the investigating officer

falsely recorded in the charge sheet that the petitioner had confessed about the misappropriation. The petitioner never confessed his guilt that he had misappropriated the alleged amount or he intentionally allowed someone to commit such crime.

8. Accordingly, learned counsel for the petitioner prays for quashment of the FIR and charge sheet submitted against the petitioner in connection with Bokajan PS case No 68/2019.

9. The respondent no. 1, has submitted a written objection, wherein it was alleged that in connection with the irregularities in the subsidy account in the SBI, Bokajan Branch, when the petitioner was serving as Assistant Manager (Credit), an enquiry was made. As per enquiry report, number of debit entries were raised in the Branch subsidy account no. 11878053565 and the amounts transferred to SBI account holders having no loan account. Some of the amounts were transferred to some third party accounts and thereafter, transferred to other accounts without the knowledge of the account holder. Subsidy accounts were debited fraudulently by the petitioner without verifying the relevant loan accounts that deserve for subsidy amount. The disbursement of subsidy amount transferred to different accounts without any valid reasons.

10. The enquiry reports also reveals that most of the transactions were not routed through subsidy register maintained by the Branch. The double entry vouchers used for the transactions were passed by the petitioner under his full signature.

11. Learned counsel for the respondent no. 1 by referring a letter dated

05/07/2017 has pointed out that the present petitioner admitted that he transferred the amount into Savings Bank account holders without verification of their loan accounts. The learned counsel, therefore, submits that the petitioner had committed the offence as per the enquiry report conducted in connection with the monetary irregularities in SBI, Bokajan Branch and therefore, this is not a fit case to quash the FIR and the charge sheet submitted against the petitioner.

12. It is submitted by learned Additional Public Prosecutor that mere issuance of charge sheet is not an adverse order and does not give rise to any cause of action. It is further argued that quashing of charge sheet is warranted only in the very rare and exceptional cases i.e., when the case is either without jurisdiction or wholly illegal and such is not the case herein.

13. The learned Additional Public Prosecutor has also contended that from the allegations made in the FIR, prima facie offence is made out against the accused/petitioner. The innocence of the petitioner cannot be adjudged at the pre-trial stage. Therefore, the petitioner does not deserve any indulgence.

14. On perusal of the materials on record and looking into the facts of the case and after considering the arguments made at the bar, it does not appear that no offence has been made out against the petitioner.

15. At the stage of issuing process, the trial court is not expected to examine and assess in detail the material placed on record, only this has to be seen whether prima facie cognizable offence is disclosed or not. The

Apex Court has also laid down the guidelines where the criminal proceedings could be interfered and quashed in exercise of its power by the High Court in the following cases:-(i) R.P. Kapoor Vs. State of Punjab, AIR 1960 S.C. 866, (ii) State of Haryana Vs. Bhajanlal, 1992 SCC (Cri.)426, (iii) State of Bihar Vs. P.P. Sharma, 1992 SCC (Cri.)192 and (iv) Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, 2005 SCC (Cri.)283.

16. In the aforesaid decisions, the Apex Court has settled the legal position for quashing of the proceedings at the initial stage. The test to be applied by the court is to whether uncontroverted allegation as made prima facie establishes the offence and the chances of ultimate conviction is bleak and no useful purpose is likely to be served by allowing criminal proceedings to be continued.

17. In S.W Palankattkar & others of Bihar, 2002 (44) ACC 168, it has been held by the Hon'ble Apex Court that quashing of the criminal proceedings is an exception than a rule. The inherent powers of the High Court under Section 482 Cr.P.C itself envisages three circumstances under which the inherent jurisdiction may be exercised:-(i) to give effect an order under the Code, (ii) to prevent abuse of the process of the court ; (iii) to otherwise secure the ends of justice. The power of High Court is very wide but should be exercised very cautiously to do real and substantial justice for which the court alone exists.

18. The High Court would not embark upon an inquiry as it is the function of the Trial Judge/Court. The interference at the threshold of quashing of the FIR/charge sheet in the case in hand cannot be said to be

exceptional as it discloses prima facie commission of an offence. In the result, the prayer made for quashing is refused. The petitioner has ample opportunity to raise all the objections at the appropriate stage.

19. Accordingly, the criminal petition is disposed of.

**JUDGE**

**Comparing Assistant**