



Serial No.02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Petn. No.3 of 2025

Date of Order:24.04.2025

1.Union of India, Represented **Vs. 1.The State of Meghalaya represented**
by the Secretary to the **by the Commissioner and**
Government of India, **Secretary, Department of Home**
Ministry of Defence. **(Police), Shillong.**
New Delhi, Delhi-110001.

2. The Officer-in-Charge,
Legal Cell, 58 GTC.

2.The Superintendent of Police,
District Ri Bhoi, Meghalaya.

3.Major Vinay Kumar Singh,
Assistant Chief Law Officer of
DGAR, Shillong. R/O HQ DGAR
Laitkor, EKH- Meghalaya.

..... Petitioners.

.....Respondents.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Dr. N. Mozika, DSGI with
Mr. R. Debnath, CGC.

For the Respondent(s) : Mrs. N. G. Shylla, Sr. PP with
Mr. A. M. Pala, GA (R: 1 & 2)
Mr. N. Khera, Adv. (R: 3)

**ORAL:-**

This criminal petition has been filed by invoking inherent jurisdiction of this Court seeking quashing of the FIR No. 02/2025 dated 03-01-2025 registered at the Umiam Police Station, Ri-Bhoi District under Sections 109(1), 117(3), 126 (2), 337, 339, 61(2) and 3 (5) of the Bharatiya Naya Sanhita, 2023.

The FIR No. 02/2025 dated 03-01-2025 was lodged by the respondent No.3 herein to report about the incident of assault, grievous hurt and an attempt to take his life on the evening of 15-11-2024 at the Cherry Blossom Festival, 2024, Umroi by the Officers, Junior Commissioned Officers and men of Headquarter 101 Area and Headquarter 21 Mountain Division, named in the FIR. The FIR was initially received at the Laban Police Station as zero FIR and, subsequently, transferred to the Umroi Police Station for investigation.

Dr. N. Mozika, learned DSGI appearing for the petitioners submits that this present petition has been filed mainly on the ground that a Court of Inquiry has been instituted by the HQ Eastern Command vide order dated 14-01-2025 to enquire into the incident in relation to which the FIR No. 02/2025 had been registered by the Umroi Police Station. He submits that although a prayer has been made in this petition to quash the said FIR, at this juncture, petitioners would pray for keeping the investigation by the State police in abeyance for a certain period of time to facilitate the smooth conduct of the Court of Inquiry. He submits that if the investigation launched by the State police and the Court of Inquiry proceeds simultaneously, immense inconvenience would be caused considering the fact that the presence of common witnesses may be necessary before both the authorities for conducting the respective



investigation and the inquiry. He fairly submits that though the petitioners do not have any legal right to stall the investigation by the State police at this stage, the present petition has been filed taking into consideration the inconvenience which may arise during the course of the Court of Inquiry. He prays for keeping the investigation by the State police in abeyance for a period of 8 (eight) weeks.

Mrs. N. G. Shylla, learned Sr.PP appearing for the State-respondents No.1 & 2 submits that the petitioners have no *locus standi* to file this present petition before this Court. She submits that the petition has been filed with a *mala fide* intention to protect the persons named in the FIR without any legal basis. She submits that the State police have the right to proceed with the investigation as there are disclosure of commission of cognizable offence in the FIR.

Mr. N. Khera, learned Counsel appearing for the respondent No.3 vehemently opposes the contentions raised on behalf of the petitioners and submits that the petitioners have no right to obstruct the investigation launched by the police at this stage. He submits that as per Section 125 of the Army Act, 1950, the petitioners can claim trial of a matter only after completion of investigation and institution of proceedings in respect of an offence. He submits that the petitioners being third party, have no *locus standi* to challenge the investigation as it is exclusively the prerogative of the accused persons to challenge the investigation initiated against them. He submits that there is no merit in the present petition and the same is liable to be dismissed.

The submissions made by the learned Counsels for the parties and the perusal of the materials on record makes it clear that the facts alleged in the FIR constitute offences under the Bharatiya Naya Sanhita, 2023 and



as per the mandate of law, these offences are to be investigated by the State police. There is nothing in law which requires handing over the investigation launched by the State police into the alleged offence under Bharatiya Naya Sanhita, 2023 if the accusation is made against army personnel. The decision of the Apex Court relied upon by the learned Counsel for the respondent No.3 in *Criminal Appeal No. 55 of 2006, Additional Director General Vs. Central Bureau Investigation* held that: -

“Thus, the law on the issue is clear that under Section 125 of the Army act, the stage of making option to try an accused by a court-martial and not by the criminal court is after filing of the chargesheet and before taking cognizance or framing of the charges.”

Thus, it is clear that Section 125 Army Act relates to the trial of a case and not to the investigation. Therefore, in view of the fact that the accused persons named in the FIR are yet to be put on trial, no question of scuttling the investigation by the State police into the FIR registered against the accused arises. The criminal petition, as such, has no merit and stands dismissed.

Despite dismissal of the criminal petition, it is expected that the State police while investigating the matter would make every effort to not cause any inconvenience to the Court of Inquiry initiated by the petitioners in the matter.

(B. Bhattacharjee)
JUDGE

Meghalaya
24.04.2025
“Biswarup PS”