



Serial No.18
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Rev. P. No. 8 of 2023

Date of Hearing: 19.05.2025

Date of Decision:19.05.2025

Dr. Dinesh Bhatia
Son of Shri Ashok Bhatia
R/o NEHU Campus, Umshing,
Shillong. East Khasi Hills District,
Meghalaya.

Vs. 1.The Central Bureau of Investigation
ACB, Oakland, Shillong - 793001
Through the Superintendent of
Police.

2. Shri Raghuvendra Pratap Tripathi
S/o Shri Ram Krishna Tripathi
R/o Shyamdasapur, Atrauli, Hardoi,
P.O. Kaudiya- 241204,
Uttar Pradesh.

..... Petitioner.

.....Respondents.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Pandit Adv.

For the Respondent(s) : Dr. N. Mozika, DSGI with.
Ms. N.A.U. Sogra, Adv.(R:1)
Mr. S. Thapa, Adv. (R: 2)



(JUDGMENT AND ORDER)

The petitioner, who is an accused in Special (CBI) Case No. 1 of 2020, has challenged the order dated 25-01-2023 of the learned Special Judge, Shillong whereby the learned Special Judge tendered pardon to the respondent No.2.

1. The fact of the case is that the respondent No.1 registered a case on 23-11-2018 on the basis of a written complaint dated 22-08-2018 of the respondent No.2, who was a student in the Department of Bio-Medical Engineering, North Eastern Hill University, Shillong, against the petitioner, an Associate Professor and head of Department of Bio-Medical Engineering, North Eastern Hill University, Shillong. It was alleged in the complaint that the petitioner was indulging in fraudulent practices and threatening the respondent No.2 to hand over him the proceeds of fake bills sanctioned by the petitioner in the name of the firms namely, M/s S. K. Enterprise, M/s Riddhi Medical Store and M/s Vindhyavasini Enterprise. It was alleged that an amount of Rs. 45,000/- was deposited in the bank account of the complainant/respondent No.2 by one Ranjeet Kumar Gupta, which was proceeds of the fake bills sanctioned by the petitioner and out of this the petitioner had asked the complainant to withdraw Rs. 40,000/- in cash and hand over to him. Since, the respondent No.2 did not want to hand over the illegal gratification of Rs. 40,000/- to the petitioner, he lodged written complaint with CBI, ACB, Shillong (respondent No.1) to take necessary action against the petitioner. After conclusion of the investigation, the respondent No.1 filed charge-sheet on 28-02-2020 against the three accused persons viz. A1(the petitioner), A2 (Ranjeet Kumar Gupta) and A3 (complainant/respondent No.2).

2. On 04-02-2021, the respondent No.2 filed an application under Section 306 Cr.PC before the Trial Court praying for grant of pardon. After hearing



the parties, the learned Trial Court passed the order dated 25-01-2023 granting pardon to the respondent No.2 on condition that he will make a full and true disclosure of the whole of the circumstances related to the offence. The petitioner has assailed the said order dated 25-01-2023 in the present revision petition before this Court.

3. Mr. Pandit, learned Counsel appearing for the petitioner submits that the learned Trial Court had committed a gross error of law by passing the impugned order. He submits that the charge-sheet filed by the respondent No.1 implicates all the three accused persons and in such a situation it was improper for the Trial Court to tender pardon to the respondent No.2. He submits that there was no proper application of mind by the learned Trial Court and the materials on record were not taken into consideration at the time of passing the impugned order. He further contends that learned Trial Court has acted mechanically only on the basis of the no objection of the respondent No.1 and has not even considered the fact that whether there was sufficient evidence available with the prosecution before considering the prayer for grant of pardon by the respondent No.2. He submits that the application filed by the respondent No.2 before the Trial Court was motivated and the passing of the impugned order is prejudicial to the interest of the petitioner in the case. The learned Counsel placed reliance on a decision dated 02-06-2023 of the High Court Punjab and Haryana in *Somveer Singh Vs. State of Haryana and others* and submits that where there exists sufficient prosecution evidence, grant of pardon cannot be held to be justified. He also placed reliance on the decision of Apex Court in *Central Bureau of Investigation Vs. Ashok Kumar Aggarwal*, (2013) 15 SCC 222 to impress upon the Court that the revisional powers under Section 397 r/w Section 401 Cr.PC can be exercised by the High Court *suo motu* to examine the



correctness, legality and propriety of any order passed by the inferior Court. He contends that the consequence of grant of pardon was required to be taken into consideration and it was incumbent upon the Trial Court to compare the culpability of the person seeking pardon *qua* the other co-accused. He submits that for the reason of non-adherence to the principles of settled law, the impugned order passed by the Trial Court cannot be sustained and is liable to be interfered with.

4. Dr. N. Mozika, learned DSGI appearing for the respondent No.1 supports that impugned order and submits that the learned Trial Court has taken into consideration the relevant factors before passing the order. He submits that the provision of Section 306 Cr.PC as well as the decisions of the Apex Court in *Lt. Commander Pascal Fernandes v. State of Maharashtra*, AIR 1968 SC 594 and *Suresh Chandra Bahri V. State of Hibir, 1995 Supp (1) SCC 80* were taken into consideration by the learned Trial Court while passing the order dated 25-01-2023. He submits that the respondent No.1 has no objection to the tender of pardon in view of the fact that the respondent No.2 is ready to make a full and true disclosure privy to the offence before the Trial Court. He submits that the learned Trial Court has not committed any jurisdictional error in passing the impugned order and hence, the same does not call for any interference by this Court.

5. Mr. S. Thapa, learned Counsel appearing for the respondent No.2 endorses the submission made on behalf of the respondent No.1 and submits that there is no illegality or infirmity in the order passed by the learned Trial Court. He contends that the petitioner being a co-accused cannot question the act of grant of pardon by the Trial Court to the respondent No.2. By placing reliance on a decision dated 07-12-2021 of the High Court of Madras in *Crl. R. C. NO. 662 of 2000 and Crl. M.P. Nos. 4397 and 8167 of 2000*,



Senthamarai Vs. S. Krishnaraj and Ors, the learned Counsel submits that the tender of pardon and its acceptance is entirely between the Court concerned and the person to whom it is made. He submits that the plea of prejudice raised on behalf of the petitioner has no base as the respondent No.2 will be examined as a witness by the prosecution in the case and the petitioner will have the opportunity of cross-examination. He submits that there is no merit in this revision petition and prays that the same may be dismissed.

6. On consideration of the submissions made by the parties and after going through the materials on records, it is clear that though the respondent No.2 has been made an accused in the case, the entire investigation was conducted on the basis of the written complaint dated 22-11-2018 lodged by the respondent No.2 resulting in filing of the charge-sheet dated 28-02-2020 by the respondent No.1. Therefore, it is apparent that the allegations made in the written complaint dated 22-11-2018 will require the evidence of the respondent No.2 to facilitate the prosecution to prove its case at the trial. Without the recourse of Section 306 Cr.PC, the respondent No.2 cannot be examined as a witness in the case against another accused. The fact that this entire prosecution case came into light because of the written complaint dated 22-11-2018 makes it amply clear that the tender of pardon will be in the interest of justice of a successful prosecution of the other offenders whose conviction is not easy without the testimony of the respondent No.2.

7. The application of the respondent No.2 before the Trial Court seeking grant of pardon was not objected to by the respondent No.1 and therefore, it is obvious that the prosecution endorsed the request that the respondent No.2 be pardoned and made an approver and be examined as a prosecution witness. The object of Section 306 Cr.PC is that the offenders of the heinous and grave offences do not go unpunished on account of lack of evidence. The very



purpose of enacting Section 306 Cr.PC is with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to an offence to which the section applies to help the prosecution to bring offenders to account for their actions. In the present case, the learned Trial Court while passing the order dated 25-01-2023 has taken notice of the fact that the respondent No. 2 was the complainant and it was on the basis of his complaint that the case came to be registered. The learned Trial Court has also taken note of the statement made by the respondent No.2 in his application that he was willing to make a full and true disclosure privy to the offence in totality before the Court. On consideration of the above, coupled with no objection to the tender of pardon by the respondent No.1, the learned Trial Court proceeded to tender pardon to the respondent No.2 on the condition that he should make a full and true disclosure of the whole of the circumstances within his knowledge related to the offence and to every other person concerned, whether as principle or abettor in the commission thereof. Thus, it is clear that the learned Trial Court has passed the order dated 25-01-2023 by proper appreciation of the fact of the case and the provision of Section 306 Cr. PC. There is no indication that the application filed by the respondent No.2 before the Trial Court was filed with oblique motives.

8. The decisions cited by the learned Counsel for the petitioner are of not much relevance in the present matter in view of the fact that in none of the cases the persons seeking pardon were the complainant. In the present case, though the respondent No.2 was named as an accused (A-3), the fact remains that he is the complainant in the matter. The contention that the tendering of pardon has caused prejudice to the petitioner is not worthy of acceptance since the prosecution is under obligation to examine the respondent No.2 as a witness in the case and the petitioner will have the right to cross-examine him.



9. In view of the above, the petitioner has failed to make out a case for interference and consequently this revision petition stands dismissed.

Judge

Meghalaya
19.05.2025
"Biswarup PS"

