



Serial No.19
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Petn. No.13 of 2025

Date of Order: 07.07.2025

Shri. Rana Ahmed	Vs.	1. State of Meghalaya, Represented
S/o Shri C. N. Marak,		by the Public Prosecutor
R/o Lower Rajapara,		
P.S. Ranikor,		2. Shri. Andrew Hashah, son of
District- South West		Shri L. Nongtnger, resident of
Khasi Hills,		kulang Village, P.S. Nonghyllam,
Meghalaya.		South West Khasi Hills District,
		Meghalaya.

.....Petitioner.

.....Respondents.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s)	: Mr. S. Deb, Adv.
For the Respondent(s)	: S. A. Sheikh, GA. (R:-1)
	None for (R: 2).

**ORAL:-**

Heard Mr. S. Deb, learned Counsel appearing for the petitioner and Mr. S. A. Sheikh, learned GA appearing for the State-respondent No.1. None appears for the respondent No.2 despite service of due notice.

1. By this application, the petitioner has prayed for setting aside and quashing of the order dated 04-02-2025 passed by the Judicial Magistrate First Class, Mawkyrwat in G.R. Case No. 17/2022 and also for quashing of the entire proceeding of the case pending before the same court.

2. The brief fact of the case is that an FIR dated 02.05.2022 was lodged by the respondent No.2 against the petitioner and another before the Borsora Police Outpost alleging non-payment of the amount agreed in the agreement dated 03.01.2022 which was executed pursuant to a road accident on the same day at Bagli village, South West Khasi Hills. Subsequently, the said FIR was registered as Nonghyllam P.S. Case No. 7 (5) 2022 under Section 279/427 IPC and the matter was investigated into. Upon completion of the investigation, a charge-sheet dated 30-09-2022 was filed by the police against the petitioner u/S 417 IPC r/w Section 180/192/192A/196/190 of the Motor Vehicle Act. By the same charge-sheet, another person namely Shri Saulus D Sangma was also charge-sheeted u/S 279/427 IPC r/w



Section 181 MV Act. The petitioner, thereafter, was made to face trial in G.R. Case No. 17/2022 in the Court of Judicial Magistrate First Class, Mawkyrwat. It appears from the record that when the case was pending for final hearing, due to continuous non-appearance of the defence counsel, the learned Trial Court by impugned order dated 04-02-2025 fixed the matter on 26-02-2025 for pronouncement of final judgment without hearing the petitioner. Being aggrieved by the impugned order dated 04-02-2025, the petitioner is before this Court by way of this criminal petition.

3. Mr. S. Deb, learned Counsel for the petitioner submits that the Trial Court was utterly wrong in passing the impugned order without affording any opportunity of hearing to the petitioner to defend his case before the Trial Court. The learned Counsel submits that the petitioner's right to be heard and defended in a criminal trial is a constitutional right guaranteed under Article 21 of the Constitution of India and the same cannot be interfered with even if there is a default on the part of the defence counsel. In addition, he contends that even on merits, there is no case against the petitioner as he was never a part of the agreement allegedly executed between the parties involved in the road accident dated 03-01-2022. He further submits that the respondent No.2, had no *locus standi* to lodge the FIR in question having no interest involved in the matter. The learned



Counsel contends that the respondent No.2 is only a witness to the alleged agreement dated 03-01-2022 and, in such a situation, the Investigating Authority could not have registered the case against the petitioner and proceeded to investigate the same. The learned Counsel places reliance on a decision of the High Court of Jharkhand dated 17-08-2021 passed in *Cr. Revision No. 468 of 2012* and submits that even if there was no appearance of the defence counsel, the Trial Court ought to have appointed an *amicus* or a Legal Aid Counsel on behalf of the petitioner for disposal of the case. He, therefore, submits that the impugned order dated 04-02-2025 and the entire proceeding of G.R. Case No. 17/2022 cannot be sustained in law and liable to be quashed.

4. Mr. S. A. Sheikh, learned GA for the State-respondent No.1, on the other hand, submits that it is too late for the petitioner to come up with the prayer of quashing of the entire criminal proceeding as the matter is now pending for final hearing and pronouncement of judgment. He submits that the impugned order dated 04-02-2025 was passed due to continuous default of the defence counsel to appear before the Trial Court for final hearing. The learned GA, however, in his usual fairness, does not dispute the right of the petitioner to be heard and defended in consonance with the provision of Article 21 of the Constitution of India and submits that the matter may be



remanded back with a direction to the Trial Court to hear the petitioner before final disposal of the matter.

5. Upon hearing the learned Counsel for the parties and on perusal of the material on record, it is clear that the G.R. Case No. 17/2022 has been proceeding in the Trial court all along without any objection from the petitioner right from the initial stage of the case. The trial has now almost reached its final stage as it is pending for final hearing. Although, the learned Counsel for the petitioner has raised some pertinent questions with regard to the *locus standi* of the respondent No.2 in lodging the FIR and the investigation of the matter against the petitioner as he was not a party to the alleged agreement dated 03-01-2022, this Court is not inclined to deal with the issue as the same can also be raised before the Trial Court at the final hearing of the case. Since, the trial has almost reached its final stage, this Court, at this juncture, does not find it appropriate to entertain the prayer of the petitioner to quash the entire criminal proceeding. However, as the petitioner has a right to be heard and defended at the trial, the impugned order dated 04-02-2025 cannot be sustained in law. Even if there was a default on the part of the defence counsel, the learned Trial Court could not have victimized the petitioner by depriving him of his right of taking part in the final hearing.



6. For the reasons stated above, the impugned order dated 04-02-2025 passed in G.R. Case No. 17/2022 by the learned Judicial Magistrate First Class, Mawkyrwat is hereby set aside.

7. It is submitted by the learned Counsel for the petitioner that the next date of the G.R. Case No. 17/2022 is fixed on 15-07-2025 by the Trial Court. It is, therefore, directed that both the parties shall appear before the Trial Court on the said date. After appearance of the parties before it, the learned Trial Court shall fix a date for final hearing of the matter by affording an opportunity to the petitioner to be heard. It is made clear that no unnecessary adjournment shall be allowed by the Trial Court in the matter.

8. With the above, this criminal petition stands disposed of.

Judge

Meghalaya
07.07.2025
"Biswarup PS"