



Serial No.01 & 2
Supple List 1

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Petn. No. 60 of 2024
Crl. Petn. No. 61 of 2024

Date of Hearing: 25.03.2025
Date of Decision: 09.04.2025

In Crl. Petn. No. 60 of 2024

Shri. Subbayan Nagarajan
S/o Late Shri Karuppya
Nagarajan R/o. 5th Floor,
26 Lake Road, Charu Chandra
College, Lake Road,
Sarat Bose Road, Kolkata,
West Bengal – 700029

Vs. State of Meghalaya represented
by Chief Secretary, Government
of Meghalaya.

::::PETITIONER.

::::RESPONDENT.

Appearance:

For the Petitioner(s) : Mr. S. P. Mahanta, Sr. Adv. with
Mr. M. Lyngdoh, Adv.
Mr. K. Bhattacharjee, Adv.

For the Respondent(s) : Mr. N. D. Chullai, AAG with
Mr. E. R. Chyne, GA.

In Crl. Petn. No.61 of 2024

Shri. Martin
S/o Shri Santiago,
R/o.135/1, Thiruvaluvar Street,
GN Mills Post, Vellakinar Pirivu,

Vs. State of Meghalaya represented
by Chief Secretary, Government
of Meghalaya.



Coimbatore North, Coimbatore,
Tamil Nadu- 641029

::::PETITIONER.

::::RESPONDENT.

Appearance:

For the Petitioner(s) : Mr. K. N. Choudhury, Sr. Adv. with
Mr. Abhishek K. Singh, Adv.
Mr. R. M. Deka, Adv.
Mr. N. Gautam, Adv.

For the Respondent(s) : Mr. N. D. Chullai, AAG with
Mr. E. R. Chyne, GA.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

(JUDGMENT & ORDER)

This set of two criminal petitions has been filed challenging the FIR No. 0248/2023 dated 11-09-2023 by raising common ground and identical prayers have been made in both the petitions. Hence, both the criminal petitions are taken up together and disposed of by a common order.

1. Heard Mr. K. N. Choudhury, learned Senior Counsel assisted by Mr. Abhishek K. Singh, learned Counsel appearing for the petitioner in Crl. Petn. No. 61 of 2024. Mr. S. P. Mahanta, learned Senior Counsel assisted by Mr. M. Lyngdoh, learned Counsel appearing for the petitioner in Crl. Petn. No. 60 of 2024 has adopted the submissions made by the learned Senior Counsel in Crl. Petn. No. 61 of 2024. Also heard



Mr. N. D. Chullai, learned AAG assisted by Mr. E. R. Chyne, learned GA, appearing for the State-respondent in both the cases.

2. The petitioners in both the criminal petitions are engaged in lottery business of distribution, marketing and sale of state organized lotteries of the State of Sikkim and Nagaland in the State of Meghalaya.

3. On 11-09-2023, an FIR was registered by the Sadar Police Station, East Khasi Hills District, Shillong against the petitioners at the instance of the Director of Meghalaya State lottery vide FIR No. 0248/2023 under Section 406/420/426/500/506/120B/ 34 IPC. The facts stated in the FIR reveal that M/s. Aspirestar Entertainment Networks Private Limited, Chennai and M/s. Woodchip Gaming Private Limited, Tezpur were appointed as distributors to conduct marketing and sale of all kinds of lottery schemes (online and paper lotteries) on behalf of the State of Meghalaya under the relevant provisions of Meghalaya Lottery (Regulation) Rules, 2019 by agreements dated 16-09-2022 and 31-08-2022 respectively. The information regarding the appointment of the distributors was also communicated to the Directorate of State Lotteries in various States. Subsequently, a lottery draw scheme was formulated by the State of Meghalaya for conducting lottery draw and the first draw was held on 30-08-2023 under the name ‘Singham Wednesday Weekly Lottery’. The allegations against the petitioners in the FIR are that they have conspired together and indulged in illegal activities of criminally intimidating, threatening, coercing and causing undue influence on the stockist and sub-stockist and others in order to destroy the competition since the petitioners are practicing monopoly in the field of lottery. The petitioners have been unlawfully preventing the official distribution and



business of the Meghalaya State Lotteries continuously through various illegal means of criminally threatening and also by manipulating stockist with false and defamatory information to curtail the distribution of the Meghalaya State Lottery at Police Bazar, Shillong and other parts of Meghalaya and other States viz., West Bengal, Punjab, Maharashtra etc. The FIR also alleged that the petitioners together with henchmen and gangster gave continuous and serious threat to the stockist, sub-stockist and others preventing them from carrying out the business with the Meghalaya State Lottery causing huge loss to the State, approximately to the tune of Rs.1500 crores and the loss caused was diverted to the income of the company owned by the petitioners. Further, it was alleged that the petitioners were strenuously spreading defamatory and false information in person and also through electronic mode against the lottery business of Meghalaya State lottery with the intention to cause fear among the stockist and others in order to gain undue advantage. The illegal activities of the petitioners prevented the stockist from carrying out lottery business with the State of Meghalaya. Hence, a request was made to register a case against the petitioners and to conduct investigation and for taking appropriate action. The said FIR was registered and recorded under Section 154 Cr.PC by the police and as per the recorded version, the date of information was 11-09-2023 and the date of occurrence was 28-03-2022, Monday.

4. The petitioners initially did not have any information of the lodging of the FIR against them. Recently, after coming to know about the FIR, the petitioners have approached this Court with a prayer for quashing the same.



5. Mr. K. N. Choudhury, the learned Senior Counsel submits that the allegations made in the FIR are absurd and highly improbable given that the alleged date of occurrence which was stated to be on 28-03-2022; whereas the distributors named in the FIR came to be appointed only on 16-09-2022 and 31-08-2022. He submits that the allegations made in the FIR, even if are accepted at their face value and entirety, do not make out any offence against the petitioners. He submits that the allegations are inherently improbable basing on which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the petitioners. He submits that the FIR has been lodged at the instance of the business rivals of the petitioners as there exist a stiff competition in the field of lottery business. He submits that the allegation of approximate loss of Rs.1500 crores made in the FIR is out and out false as the total turnover in case of hundred per cent sale of Meghalaya Lotteries w.e.f. the date of first draw till the date of filing of the FIR could have been Rs.57,19,31,360/-. Drawing attention of this Court to the various sections of law under which the FIR has been registered, the learned Senior Counsel submits that none of the ingredients of offence of criminal breach of trust, cheating and dishonestly inducing delivery of property, mischief, defamation and criminal intimation is made out against the petitioners. He submits that the allegations made in the FIR is entirely vague as there is no disclosure of the date, time and place of alleged commission of any offence by the petitioners. He submits that the FIR is aimed at initiation of frivolous and vexatious proceeding against the petitioners in order to cause harm and loss to their reputation and business and prays for quashing of the



impugned FIR dated 11-09-2023. In support of his submission, the learned Senior Counsel has placed reliance on the decisions of *State of Haryana and Others vs Bhajan Lal and Others*, 1992 Supp (1) SCC 335; *Indian Oil Coron. Vs NEPC India Ltd and Others*, (2006) 6 SCC 736; *Mahmood Ali and Others vs State of Uttar Pradesh and Others*, (2023) 15 SCC 488; Judgment and order dated 02/02/2025 passed by the Hon'ble Apex Court in *Kim Wansoo vs State of Uttar Pradesh & Ors.*; *Rajiv Thapar and Others vs Madan Lal Kapoor*, (2013) 3 SCC 330; *Prof. RK Vijayasathya and Another vs Sudha Seetharam and Another*, (2019) 16 SCC 739; *King Emperor vs Moti Lal and Another*, Allahabad Series Revisional Criminal vol.XXIV Page 155; *Subramanian Swamy vs Union of India*, (2016) 7 SCC 221, *Manik Taneja and Another vs State of Karnataka and Another*, (2015) 7 SCC 423; *Madhushree Datta vs State of Karnataka and Another*, 2025 SCC OnLine 165; *B.R Enterprises vs State of UP and others*, (1999) 9 SCC 700 and *State of Maharashtra and Anr vs State of Arunachal Pradesh and Ors.*, (2003) 2 Gauhati Law Reports 195.

6. Mr. N. D. Chullai, learned AAG for the State-respondent, submits that the power of quashing of criminal proceeding should be exercised very sparingly and only in the rarest of rare cases. He submits that the reliability or genuineness of the allegations made in the FIR can only be ascertained after conducting a proper investigation and it would not be proper for this Court to scuttle the investigation at this stage. He submits that whether the State has suffered a financial loss or not can only be revealed after the investigation is complete in the matter. He submits that the investigation of the case is at initial stage and the matter has



been handed over recently to the State CID in the month of November, 2024 for a detailed investigation. He submits that this is not a fit case where the inherent power of this Court be exercised for quashing the FIR. He supported his contentions by placing reliance on the decision of *State of Haryana and Others vs Bhajan Lal and Others (supra)*.

7. Having heard the learned Counsel for the parties and having gone through the materials on record, the only question that falls for consideration of this Court is whether the allegations made in the FIR No. 0248/2023 dated 11-09-2023 makes disclosure of any cognizable offence justifying initiation of investigation in the matter by police.

8. Perusal of the impugned FIR recorded u/S 154 Cr.PC reveals that the date of alleged occurrence was on 28-03-2022 and the date of information was 11-09-2023. The contents of the FIR further reveals that one M/s. Aspirestar Entertainment Networks Private Limited, Chennai and M/s. Woodchip Gaming Private Limited, Tezpur were appointed as distributors for marketing and sale of State lotteries on 16-09-2022 and 31-08-2022 respectively after execution of the related agreements. The aforesaid uncontroverted facts make it amply clear that on the date of the alleged offence, the distributors named in the FIR were not even appointed as the distributors for the Meghalaya State Lottery. In absence of distributor, there could not have been any stockist or sub-stockist for the State lotteries on the date of alleged occurrence of offence. Hence, the allegations made in the FIR are apparently absurd and inherently improbable.

9. It is stated in the impugned FIR that the first draw under the name 'Singham Wednesday Weekly Lottery' was held on 30-08-2023 and the



FIR was registered on 11-09-2023 i.e. after 11 days of the first draw. A detailed calculation of the overall turnover in case of total sale of Meghalaya Lotteries based on the State Government Notification No. ERTS(SL)3/2023/35 dated 23-08-2023 is provided in the petitions showing the maximum possible turnover as Rs.57,19,31,360/-. The calculation is not disputed by the State-respondent. Thus, the allegation of approximate loss of Rs.1500 crores made in the impugned FIR, is nothing but outcome of a figment of imagination having no bearing with the real or objective existence and, therefore, inherently improbable.

10. There is no material to *prima facie* satisfy the ingredients of offence under Sections 406, 420, 426, 500 and 506 IPC. Even if the allegations made in the impugned FIR is taken in their face value, none of the ingredients constituting the alleged offence are culled out. The learned AAG appearing for the respondents did not specifically argue on the ingredients of the offences alleged. To attract the offence of criminal breach of trust under Section 406 IPC, it is mandatory to allege that the accused was entrusted with property or dominion over it and the accused must have misappropriated the property or disposed of that property in violation of such trust. It is not the case of the respondent in the present case that the petitioners were entrusted with any property and they have dishonestly misappropriated the property. The condition necessary for an act to constitute an offence under Section 420 IPC is that there was dishonest inducement by the accused. No act on part of the petitioners has been alleged in the impugned FIR that discloses an intention on the part of the petitioners to induce the delivery of any property to the petitioners or to any other person. There is thus nothing on the face of



the FIR to indicate that the petitioners dishonestly induced any person to deliver any property to them. The ingredients necessary to constitute the offence of cheating is not made out from the face of the FIR and consequently, no offence under Section 420 IPC is made out. Furthermore, to maintain an FIR or complaint on the allegation of mischief under Section 426 IPC, there must be an accusation of causing destruction of some property or any change in it or in its situation resulting in destruction or diminish its value or utility, or affect it injuriously. In the FIR filed by the Director of Meghalaya State Lottery, there is no whisper of any accusation of destruction of any property or any change in its situation by the petitioners. Insofar as, Section 500 IPC is concerned, the decision of *Subramanian Swamy (supra)* makes it clear that no FIR for defamation can be registered nor can any direction be issued u/S 156 (3) Cr.PC for registration of FIR in view of Section 199 Cr.PC. In addition, the impugned FIR indicates that no particulars are given as to the persons threatened/coerced, the place or time of the occurrence. There is no disclosure of the nature of threat made by the petitioners. Without the said details and particulars, it is apparent that the allegation of threat has been made without any basis and thus, it would be improper to launch any investigation into the allegation u/S 506 IPC. In absence of any of the ingredients of the substantive offences, the offence under Sections 120B and 34 IPC cannot be invoked. Thus, the entire FIR filed by the respondent appears to be frivolous and vexatious.

11. Apart from the above, it appears that the impugned FIR was filed and registered on 11-09-2023 after lapse of one and half year from the



date of alleged occurrence on 28-03-2022. The submission made by the learned AAG reveals that the investigation of the case was handed over to the State CID only in the month of 2024 i.e. after more than one year of the registration of the FIR. The materials on record show that the investigating authority has not taken any effective steps to advance the investigation. No explanation has been offered to explain the delay of more than one year in initiating the investigation. Thus, it is clear that the investigating authority has no real intention to investigate the matter. Delay in investigation leads to prejudice and injustice to the accused and can also be a valid reason for the Court to consider quashing of the FIR. In the present case, in view of the facts and circumstances of the case as observed in the foregoing paragraphs, the continuation of the investigation would be an abuse of the process of law causing injustice to the petitioners.

12. The authorities cited by the learned Senior Counsel in support of his case, though relevant in the facts and circumstances of the case, are not discussed in detail in view of the discussions and observations made above.

13. For what has been discussed above, these Criminal Petitions succeed. Resultantly, the Sadar Police Station FIR No. 0248/2023 dated 11-09-2023 stands quashed.

14. The Criminal Petitions are allowed.

JUDGE

Meghalaya



09.04.2025
"Biswarup-PS"

