



Serial No.01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn.No.22/2025

Reserved on: **02.07.2026**

Pronouncement on: **29.07.2026**

1. Smti. Binora Sohkhlet

2. Shri Rexibond Sohkhlet

3. Shri Mexcibond Sohkhlet Petitioners

Vs.

1. State of Meghalaya, represented by the Chief Secretary to the Government of Meghalaya, Shillong.

2. Smti. Rihuncy Swer

3. Miss Vanessa K. Swer

4. Smti. Payal Khonglah

5. Shri Evison Khonglah

6. Smti. Deiyon Khonglah Respondents

Coram:

Hon'ble Mrs. Justice Revati Mohite Dere, Chief Justice

Appearance:

For the Petitioners : Mrs. P.D.B. Baruah, Sr.Adv with
Ms. R.P.N. Marak, Adv

For the Respondents : Mr. N. Syngkon, GA with
Mr. J.N. Rynjah, GA
In-person for R/2&3
Mrs. S.K. Nongrum, Adv with
Ms. S. Kh. Nongrum, Adv for R/4-6



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| i) | Whether approved for reporting in Law journals etc.: | Yes |
| ii) | Whether approved for publication in press: | Yes |
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JUDGMENT:

Heard Mrs. P.D.B. Baruah, learned Senior Counsel for the petitioners and Mrs. N. Swer appearing in person i.e., respondent No.2 on behalf of herself and respondent No.3.

2. Rule. Rule is made returnable forthwith with the consent of the parties and the aforesaid petition is taken up for final disposal.

3. By this petition, preferred under Section 528 of the BNSS (482 CrPC), the petitioners seek quashing of the Criminal Complaint Case No.13 of 2024, pending in the Court of the learned Magistrate First Class, Subordinate District Council Court, Shillong.

4. The case of the respondent Nos.2 and 3 as disclosed in the private complaint is as under;



5. The respondent No.2 (original complainant No.1) is the wife and respondent No.3 (original complainant No.2) is the daughter of (L) Alban Khonglah (hereinafter referred to as the deceased), who expired on 18th September, 2023.

6. The accused No.1-Smti. Payal Khonglah and accused No.6-Smti. Deiyou Khonglah are the sisters and accused No.2-Shri Erison Khonglah is the brother of the deceased-Alban; accused No.3-Smti. Binora Sohkhlet (petitioner No.1) is the sister-in-law of the deceased-Alban and and wife of (L) Markor Khonglah; and accused Nos.4 and 5-Shri Rexibon Sohkhlet and Maxillon Sohkhlet (petitioner Nos.2 and 3, respectively) are sons of petitioner No.1-Binora. The present petition has been filed by the original accused No3-Smti. Binora Sohklet and accused Nos.4 and 5-Rexibond and Maxillon.

7. According to the respondent No.2 (original complainant No.1), she and her husband (L) Alban Khonglah had cohabited as husband and wife together for twenty years and that the family members of her deceased husband had accepted and recognised them as husband and wife. The respondent No.3



(original complainant No.2), is the daughter of respondent No.2 and her deceased husband. It appears that there is a dispute between the parties with respect to certain properties of the respondent No.2's late husband and his brother's family. The nature of dispute is set out in the complaint. However, it is not necessary to set out the nature of the dispute between the parties, as in the present petition, this Court is concerned only, as to whether the facts as disclosed in the complaint and the statements taken on oath disclose the commission of any offence qua the petitioners.

8. It appears that there was a Deed of Settlement entered into between the parties and the properties were distributed between the family of two brothers i.e., some of the properties were received by the respondent Nos.2 and 3 (original complainants) and some by the petitioners' family. The Deed of Settlement was entered into between the parties on 30th October, 2023. The said Deed of Settlement has been signed by all the beneficiaries, including respondent Nos.2 and 3, though it is now contended that when the same was signed they were not in



a proper frame of mind. Be that as it may, respondent Nos.2 and 3 have filed civil suits, as against the petitioners and others and, the said suits with respect to the properties in question are pending. The respondent Nos.2 and 3 also filed a private complaint, alleging offences punishable under Sections 404, 506, 499 and 34 of the IPC qua the petitioners and others in the court of the learned Judicial Magistrate First Class. The learned Magistrate was pleased to issue summons to the petitioners and others after recording the statements of the said respondent Nos.2 and 3, on oath. The said summons/proceedings have been challenged by the petitioners in the aforesaid petition.

9. Mrs. Baruah, learned Senior Counsel appearing for the petitioners submitted that taking the complaint as it stands, including the statements taken on oath, no offences as alleged are disclosed under any of the sections qua the petitioners. She submitted that the parties had signed a Deed of Settlement on 30th October, 2023 and that the said Deed of Settlement has not been challenged till date. She submitted that the respondent Nos.2 and 3 have filed civil suits as against the petitioners and



others and that the said suits are pending before the court of competent jurisdiction. Mrs. Baruah further submitted that the present proceeding is nothing but an abuse of the process of the Court, and as such, the same be quashed and set aside. Learned Senior Counsel for the petitioners relied on the following judgments in support of her submission i.e., ***State of Haryana & ors v. Ch. Bhajan Lal & ors*** reported in ***1992 SCC (Supp) 1 335***; ***Modi Rubber Limited v. Union of India & anr*** reported in ***(1997) 7 SCC 13***; ***M/s Pepsi Foods Ltd. & anr v. Special Judicial Magistrate & ors*** reported in ***AIR 1998 SC 128***; ***(1998) 5 SCC 749***; ***Hindu Public & anr v. Rajdhani Puja Samithee & ors*** reported in ***(1999) 2 SCC 583***; ***Dilawar Singh v. State of Delhi*** reported in ***(2007) 12 SCC 641***; ***National Bank of Oman v. Barakara Abdul Aziz & anr*** reported in ***(2013) 2 SCC 488***; ***Vijay Dhanuka v. Najima Mamtaj Etc.*** reported in ***(2014) 14 SCC 638***; ***K.S. Joesph v. Philips Carbon Black Ltd.*** reported in ***(2016) 11 SCC 105***; ***Mohammad Ayub Rizvi & ors v. Smt. Salma Khan & anr*** reported in ***2023:AHC-LKO:58738***; ***Anshaman Singh & ors v. State of U.P. & anr*** reported in ***2023 Latest Caselaw 3193 ALL***; ***Aloka***



Goptu v. State of West Bengal & ors reported in **2024 2 SC OnLine Cal 943**; ***M/s JM Laboratories & ors v. State of Andhra Pradesh & anr*** reported in **2025 INSC 127**; and ***Shri Sildon N. Sangma v. State of Meghalaya & anr*** reported in **2018 CriLJ 376**.

10. The respondent No.2 appearing in person on behalf of herself and respondent No.3 opposed the petition. She submitted that the complaint coupled with the statements recorded on oath by the learned Magistrate clearly demonstrates the offences committed by the petitioners and as such, the petition be dismissed. When questioned, the respondent No.2 does not dispute that the Deed of Settlement has not been challenged by her, though she alleges that the said Deed of Settlement was signed by her daughter under duress. The respondent No.2 appearing in person also relied on the following judgments in support of her submission i.e., ***Criminal Appeal No.1158 of 2010*** passed by the Apex Court on **6th July, 2010**; ***Criminal Appeal No.330 of 2021*** passed by the Apex Court on **13th April, 2021**; ***Criminal Appeal No.1407 of 2012*** passed by the



Apex Court on **13th September, 2012; WP (C) No.7346 of 2013** passed by the High Court of Kerela at Ernakulum on **11th April, 2017; Cr.P.C.No.07/2009, MP No.07/2009** passed by the High Court of Jammu & Kashmir at Jammu on **12th October, 2017;** and **CRM (M) No.465 of 2022** passed by the High Court of Jammu & Kashmir and Ladakh at Srinagar on **26th December, 2022.**

11. Perused the papers, in particular the complaint filed by the respondent Nos.2 and 3 qua the petitioners and others, the statements recorded by the learned Magistrate of the respondents and the impugned order passed by the learned Magistrate dated 5th July, 2024, issuing summons to the petitioners for the offences punishable under Sections 404, 506, 499 and 34 of the IPC.

12. At the outset, it may be noted that the law with respect to when a complaint can be quashed is no longer res integra.

13. In *Pepsi Foods* (supra), the Apex Court has held as under;



“Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused”.

14. Keeping the aforesaid principles in mind, which are reiterated in several other judgments by the Apex Court, it would now be appropriate to consider, whether the complaint/statements taken on oath, disclose the commission of any of the alleged offences?

15. A perusal of the private complaint coupled with the statements recorded by the learned Magistrate on oath reveals that there is some dispute with respect to the distribution of the



properties between the respondent Nos.2 and 3 on the one hand, and the petitioners and others on the other hand. As far as allegations of Section 404 of the IPC (dishonest misappropriation of property possessed by a deceased person at the time of his death) are concerned, no ingredients of the offence are disclosed from the complaint/statements of the respondent Nos.2 and 3 to support the said allegations qua the petitioners, who are mother and sons. Neither, are the necessary ingredients of Section 503 (criminal intimidation) disclosed qua the petitioners. According to the respondent Nos.2 and 3, the allegations qua the petitioners are essentially set out in paragraph 47 of the private complaint. In paragraph 47, the complainant No.2 i.e., respondent No.3 herein, has alleged that when she was in the process of shifting few of her father's belonging, the accused persons harassed her mentally and made certain statements, which are reproduced in paragraph 47. As far as the present petitioners are concerned, who are the original accused Nos.3, 4 and 5 the allegations are; (i) that the accused No.4 i.e., the petitioner No.2 told the respondent No.3 "*how dare you disturb us and our mother*" and the petitioner No.1 (original accused



No.3) told her *“you want to fight lets fight I am ready”*. Against petitioner No.3 (original accused No.5), there are no specific allegations. There is an omnibus general statement in paragraph 48, that all the accused persons threatened the respondent No.3, by calling people close to her deceased father and telling them that *“if a case is filed against them, the respondent No.2 will lose the case and she will also lose everything whatever the accused persons had given her”*. Rest of the allegations in the complaint are general and omnibus. The cause of action is alleged to have arisen on 6th December, 2023, when all the accused persons are alleged to have made defamatory remarks causing mental harassment to both the respondent Nos.2 and 3 and the deceased husband and father, respectively, if he were alive in February, 2024, i.e. when the accused persons called people close to respondent No.2’s husband and respondent No.3’s father. The other cause of action is alleged to have taken place on 9th May, 2024, when the respondent No.2 received a call from her deceased husband friend disclosing about derogatory and defamatory remark about her deceased husband by the accused.



As stated above, no details of the person to whom such calls were made and what were the remarks have been disclosed.

16. Having perused the complaint dated 28th June, 2024 coupled with the statements of respondent Nos.2 and 3 made on oath, this Court prima facie finds that no offences as alleged under any of the Sections are made out against the petitioners. This Court also finds that the learned Magistrate has not given any reasons for issuing summons, thus, showing non-application of mind by the learned Magistrate. As observed in *Pepsi Foods* by the Apex Court, summoning a person is a serious matter and that criminal law cannot be set into motion as a matter of course, and as such, in the facts, this Court finds that the criminal complaint filed by the respondent Nos.2 and 3 is an abuse of the process of law.

17. In this view of the matter having regard to what is stated hereinabove, the impugned order dated 5th July 2024, passed by the learned Magistrate First Class, Subordinate District Council Court, Shillong, issuing summons to the petitioners cannot be sustained and as such, is quashed and set aside and



consequently, the proceeding pending before the learned Magistrate First Class, Subordinate District Council Court, Shillong, is also quashed and set aside qua the petitioners.

18. It is made clear that the observations made herein, are keeping in mind the contents of the private complaint coupled with the statements made on oath and the impugned order issuing summons. Any other proceeding will be conducted on its own merits uninfluenced by the same.

19. Rule is made absolute on the aforesaid terms.

20. The petition is allowed and disposed of on the aforesaid terms.

21. All parties to act on the authenticated copy of this order.

(Revati Mohite Dere)
Chief Justice

Meghalaya
29.07.2026
"Lam DR-PS"