

THE HIGH COURT OF TRIPURA
AGARTALA

CRP 93 of 2010

Sri Uttam Kumar Laskar
S/O Lt. Pabitra Mohan Laskar, resident of
Ujan Abhoynagar, P.O. Abhoynagar,
P.S.- East Agartala, Dist. – West Tripura.

..... *Petitioner*

- Vs. -

1. The State of Tripura
Notice to be served upon the Secretary,
Department of Home Affairs,
Govt. of Tripura, Agartala.
2. Sri Sankar Laskar
S/O Lt. Nibaran Chandra Laskar,
Resident of Ujan Abhoynagar,
P.O. – Abhoynagar, P.S. East Agartala,
Dist.- West Tripura.

..... *Respondents*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the Petitioner : Mr. R.R. Dutta, Advocate.

For the respondents : None.

Date of hearing & : 09.06.2015.
delivery of
Judgment & order

Whether fit for : No.
reporting

JUDGMENT & ORDER (ORAL)

On 28th May, 2015 a request was made and this request was allowed and the case was adjourned to today, but it was also ordered as follows:-

"It is unfortunate that this civil revision petition which is more than five years old is dragging on in Court. This cannot be permitted. However, at the request of Ms. K. Biswas, one last opportunity is given."

2. Today again request has been made that Sri M. Kar Bhowmik, learned senior counsel has suddenly fallen ill and the case may be adjourned. This prayer cannot be accepted. This case is part-heard for more than 4 months. On every date adjournment is being asked for and therefore, I proceed to decide the petition on merits.

3. Briefly stated the facts of the case are that the petitioner, who is the complainant filed a complaint in the Court of the Chief Judicial Magistrate, West Tripura, Agartala wherein the main allegation was that the accused persons namely, Sri Sankar Laskar and Sri Swapan Debbarma had in connivance with each other created forged false registered sale deeds and on the basis of the forged sale deeds sold the land to many other persons. The main complaint was that Sri Sankar Laskar and Sri Swapan Debbarma, respondents with a view to cause wrongful loss to the complainant and wrongful gain to themselves forged the documents No.1-7693 dated 29.12.1986 and 1-7031 dated 22.09.1971 for the purpose of cheating the complainant and his co-sharers. It appears that after this complaint was filed, the same was sent to the police and an FIR was registered being FIR No.111 of 2007 in East Agartala Police Station under Section 468/465 read

with 120(B) IPC. Charge against the accused was framed. The accused Sri Swapan Debbarma was discharged and the proceedings continued against Sri Sankar Laskar only. Charge was framed on 07.10.2009 against Sri Sankar Laskar under Sections 468, 471 and 420 IPC and the case was listed for evidence of the prosecution in the month of November, 2009. 5(five) dates were given.

4. On 31.10.2009, the case was again listed when the APP informed the Court that the sale deeds which had been seized had been released in favour of the accused Sri Sankar Laskar and it was prayed that he be directed to resubmit the sale deeds in Court. The learned Court below found that only one sale deed had been released and one had not been released. The I.O. was directed to trace out the aforesaid two dates and produce the same on the next date i.e. 23.11.2009. Thereafter, the complainant on the next date i.e. 23.11.2009 filed another application to place certain documents on record. The witnesses were not present and the case was adjourned. On 27.11.2009, this application was taken up and the Court found that the I.O. had not furnished the documents which had been directed by the Court to be furnished on 31.10.2009, but no final order was passed. On 06.02.2010, the complainant filed another application for production of these two deeds and also praying that an order for re-investigation of the case be passed and 5 other accused persons

be also implicated in the case. This application was disposed of on 25.06.2010 and the learned Court below held that re-investigation of the case could not be ordered since the charge sheet have been submitted and the charges have been framed. The application was rejected. Instead of filing a revision petition against that order, the complainant filed another application before the trial Court and again prayed for re-investigation of the case which was rejected on 04.08.2010. On 07.08.2010, it was prayed by the complainant that the matter should be re-investigated. This prayer was again rejected. Now the present petition has been filed again praying that the matter be re-investigated.

5. I am clearly of the view that this Court cannot order re-investigation in the matter. The Magistrate who is seized of the matter is absolutely justified in rejecting the prayer for re-investigation. The complainant cannot become judge and jury in his own case. He cannot decide himself that the accused are guilty. This is where the role of the Public Prosecutor and the investigating officer is important. They are to conduct the investigation in a fair manner whether it favours the accused or the complainant. The complaint was originally filed by the informant-complainant himself. It was filed only against two persons. One person was discharged and no revision was filed against the order of discharge. The complainant accepted that order of discharge and now cannot turn around and pray that

some other persons be impleaded without even giving any reasons for the same.

6. However, I am also clearly of the view that once the criminal Court had directed the investigating officer to trace out the two sale deeds, it is the duty of the investigating officer to trace out the two sale deeds. These sale deeds go to the root of the matter. If the sale deeds are forged, then different consequences will follow. If the sale deeds are not forged, then different consequences will follow. Initially, the Magistrate had come to the conclusion that both the sale deeds have been released in favour of the accused persons. First of all I am extremely doubtful whether such sale deeds which were the basis of the case against the accused persons should have been released at all to the accused persons. That was highly improper. If an accused person is charged with having forging a document and that document is released to that person and he destroys the document nothing can be proved.

7. Therefore, with regard to this prayer, I issue the following directions:-

- (i) The Magistrate shall before fixing the next date for evidence first ascertain where the two sale deeds are. If the sale deeds were filed

with the charge sheet he shall find out whether they have been released in favour of the accused or not. If they have been released in favour of the accused then the accused is directed to return the same to the Court and in case the accused does not return the same to the Court then adverse inference may be drawn by the trial Court against the accused. In case, the documents were not released then it is the duty of the police and the Court to ensure that they are placed on the court record.

(ii) In case, the complainant can bring these documents on record by any other means he can be permitted to do so. But the trial cannot be delayed for eternity.

8. The case is almost 8 years old by now and therefore, it is directed that the learned trial Court shall on or before 31st July, 2015 pass a detailed order clearly stating in whose possession the sale deeds are and whether they have been released or not. Thereafter, the date for evidence shall be fixed and the evidence shall be recorded. No further adjournment shall be granted under any circumstances.

9. With these observations, the revision petition is disposed of.

CHIEF JUSTIC

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