

THE HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

Criminal Petition.24 of 2012

Shri Joydip Das,
S/o Sri Bhanu Bhusan Das,
Village - Ganki, P.O. - Purba Ganki,
P.S - Khowai, Town - Khowai, District Khowai.

..... *Petitioner.*

- *V/s* -

The State of Tripura.

..... *Respondent.*

_B_E_F_O_R_E_

THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA

For the petitioner : Mr. P Roy Barman, Advocate,
Mr. S Bhattacharji, Advocate.
For the respondent : Mr. A Ghosh, Public Prosecutor.
Date of hearing
and delivery of judgment : 16.7.2015.
Whether fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER(ORAL)

This petition has been filed by the petitioner challenging the order dated 6th January, 2012 whereby the learned Judicial Magistrate, 1st Class, Khowai, West Tripura rejected the prayer made by the petitioner for summoning Measurement Book Nos.205/TNP/2006 and 206/TNP/2006.

2. I am not going into a detailed discussion but the allegations against the petitioner are of embezzlement of funds. Along with this application the petitioner has filed an application purported to be dated

7th January, 2009 wherein he has submitted some Measurement Books to the Executive Officer of the Teliamura Nagar Panchayet.

3. At the outset I may notice that this letter dated 7th January, 2009 has admittedly been written subsequent to the filing of the FIR and registration of the case against the accused. The prosecution evidence is over. The accused has also examined his evidence and he has only prayed for summoning of these Measurement Books.

4. This case has been pending in the High Court for the last 3(three) years only for this purpose and the trial has unnecessarily been delayed. Therefore, I dispose of this petition with the following directions

- (i) The parties are directed to appear before the learned trial Court on 18th August, 2015. The trial Court shall issue notice to the Executive Officer, Teliamura Nagar Panchayet and the Measurement Books may be produced before the trial Court on the date to be fixed by him sometime in the month of September, 2015.
- (ii) Since evidence of both the prosecution and the accused has been recorded after the Measurement Books are received, the trial Court shall hear the arguments and while hearing the arguments it will decide whether the Measurement Books are relevant evidence. He shall also decide whether the Measurement Books can be read in evidence without formal proof or not. If they cannot be read in evidence without formal proof they shall not be taken into consideration and if it is found that the Measurement Books can be read in evidence without formal proof then the same shall be read in evidence.

(iii) The learned trial Court while considering the contents of the Measurement Books shall also take into consideration the fact that the Measurement Books were submitted by the accused after the FIR had already been registered.

With these observations the petition is disposed of. Send down the LCRs forthwith.

CHIEF JUSTICE

Sukhendu