

THE HIGH COURT OF TRIPURA AGARTALA

CRL PETN 44 OF 2012

1. Shri Maholal Debbarma @ Mahela,
Son of Shri Malin Debbarma
of Karna Chandrapara, Sangkuma,
P.S Takarjala, District West Tripura.
2. Shri Mukesh Debbarma @ Peteng,
Son of late Subal Debbarma
of Daharampara, P.S. Birganj,
District South Tripura.
3. Shri Chandramani Debbarma,
Son of late Narendra Debbarma,
of Maharampara, Amarendra Nagar,
P.S. Birganj, District South Tripura.
4. Shri Biresb Debbarma @ Bidesb
Son of late Jagabandhu Debbarma
of Gurudayalpara, Jampuijala.
5. Shri Swarna Mohan Jamatia @ Chaktremmini,
Son of Shri Kunja Behari Jamatia,
of Mandwipara, Sangkuma,
6. Shri Purna Hari Hrankhwal,
Son of Shri Bikram Singh Hrankhawl,
of Village Killapara,
Killavarma (Tuimaranga).
7. Shri Sarna Kumar Kalai @ Mohan Kalai,
Son of Shri Dinabandhu Kalai
of village Kalaibari,
8. Shri Kishore Debbarma
Son of late Birkumar Debbarma
of Village Gurudayalpara, Jampuijala,
Serial 4 to 8, all of P.S. Takarjala,
District West Tripura.

.....Accused-Petitioners

- Vs. -

The State of Tripura
Represented by the Secretary, Home Department,
Government of Tripura.

..... Respondent

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA**

For the petitioners : Mr. R. Dutta, Advocate.
For the respondent : Mr. R. C. Debnath, Addl. P.P.
Date of hearing & delivery of judgment & order : **20.07.2015.**
Whether fit for reporting : **No.**

JUDGMENT AND ORDER (ORAL)

The petitioner, by means of this petition, has sought quashing of the criminal proceedings in Case No. P.R.C 69 of 2011 i.e. arising out of Takarjala PS case No. 5 of 2011.

2. Briefly stated, the story of the prosecution is that on 26.02.2011, Sri Prabir Debbarma, SI of Takarjala Police Station along with other staff was performing law and order duty in front of Jampuijala BDO Office as there was some counting of votes going on. It was alleged that an agitated mob armed with deadly weapons, such as lathis, daos etc. came to the spot with the intention of causing injuries to the civilian and police public servants, who were engaged in performing their duties. The mob could not be controlled and the members of the mob assaulted and prevented the Officer-In-Charge of the police and other security personnel from discharging their duties. The said police officials had to resort to open fire to save their lives and the property of the State. Later, the mob dispersed and the position was brought under control. One police officer, Sri Shyamal Debbarma received grievous injuries and

was sent to the hospital. This is the gist of the case and Sri Prabir Debbarma, S.I. and Officer-in-Charge of the Jampuijala Outpost lodged the FIR No.03 of 2011 at P.S. Takarjala and on the basis of this FIR, investigation was done and charge sheet has been filed under Sections 148/149/333/353/326/307/427 of IPC.

3. With regard to the same incident, another complaint was filed by Smt. Kajal Debbarma. This FIR was filed on 28.02.2011 and in this also it is stated that when the results of the village election were being announced, then the mob attacked the Block Office with deadly weapons and some of the members of the mob attacked the complainants. In this, names of some of the members of the mob have been given.

4. Both the FIRs arise out of one incident. It would be pertinent to mention that the accused had to file two separate bail applications, one in respect of Takarjala PS Case No. 03 of 2011 and in the second in respect of Takarjala PS Case No. 05 of 2011. When the second case was taken up for hearing, the learned Addl. P.P. had very fairly submitted that the occurrence in both the cases is the same and two separate cases have been registered on the basis of two FIRs lodged in respect of the same incident.

5. There cannot be two separate trials in respect of one incident. This would be violative of one of the fundamental rights

guaranteed by the Constitution under Section 20 which reads as follows:-

"20. Protection in respect of conviction for offences.- (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself."

Sub-Section 20(2) embodies the principle of double jeopardy and clearly lays down that no person shall be prosecuted and punished for the same offence more than once.

6. In the present case, just because two separate FIRs are filed, one by the police authorities and one by some private persons, two trials cannot be permitted to go on because the genesis of both the FIRs is exactly the same.

7. The second proceedings are totally misconceived. I would have normally directed that the second proceedings be tagged with the first proceedings but unfortunately, the second proceedings have been stayed for the last three years and the first proceedings have continued. Therefore, I have no option but to quash the second proceedings and the proceedings in Takarjala PS case No. 5 of 2011 giving rise to PRC No.69 of 2011 pending in the Court of learned Judicial Magistrate, First Class, Bishalgarh are quashed.

8. The learned trial Court be informed accordingly.

9. With these observations, the Criminal Petition stands disposed of.

CHIEF JUSTICE

Satabdi/Sima