

Party Name : MUSLIM MIAH & 31 ORS Vs C.B.I

THE HONBLE MR JUSTICE U. B. SAHA

Crl. Petn. No. 25 of 2014 and Crl. Petn. No.26 of 2014 are taken up together for hearing on the prayer of learned counsel on both side.

Heard leaned counsel for the parties.

West Agartala PS Case No.224 of 2006 under Sections 468, 471 and 420 of IPC was registered on 02.12.2006 on the basis of an FIR lodged by one Himangshu Sekhar Mandal, Branch Manager of Union Bank, Agartala Branch. It was alleged in the FIR that during the period from 21.11.2006 to 22.11.2006, there were fraudulent encashment of Rs. 280.50 lakhs through the demand drafts issued by one Alrazhi Banking Investment Corporation, Riyadh, by customers pertaining to various banks and the drafts were cleared. In the FIR, names of 55 accused persons were arrayed and investigation was taken up by CBI. After investigation, CBI submitted 50 charge sheets as against 50 accused persons. Cognizance was taken by the trial court on the basis of the charge sheets and in the meantime, in two cases accused expired. So, 48 cases left for trial. Charges have been framed against the accused persons and trial has been taken up. In course of trial, 37 accused persons, who are the petitioners of the present criminal petitions, filed application before the trial judge for clubbing together of all the cases for all convenience. It has been contended that all the charge sheets are filed arising out of one FIR and 90% of the witnesses are common to all the cases. Clubbing together of all cases in a single trial will save time of the Court and will be convenient for the witnesses as well as the accused. It has also been stated on behalf of the petitioners that if all the cases are tried one after another, defence will be disclosed and the accused persons will be prejudiced. The trial Court refused the prayer of the petitioners and the petitioners thereafter preferred Crl. Rev. P. No.12(2) of 2003 and Crl. Rev. P. No.13(2) of 2003 before the learned Sessions Judge, Agartala and the learned Sessions Judge also by judgment dated 13.08.2013 rejected the prayer. It is observed by learned Sessions Judge that trying together of all the cases will be a mess and therefore it will be appropriate to try all the cases separately.

Learned counsel appearing for the accused petitioners submit that one police case was registered, whereas 50 separate charge sheets filed against each of the accused persons and for all convenience of the cases, it would be proper to club all the cases together for joint trial.

Learned CBI counsel Mr. Debnath and Mr. Saha submit that CBI has no objection if all the cases are tied up together for trial. It is also submitted by the learned counsel for the CBI that 37 accused persons approached this Court for joint trial whereas 11 charge sheets as against 11 accused persons are left and those accused persons in connection with those 11 charge sheets may also be noticed for hearing them to facilitate a joint trial of all the cases.

On 25.11.2014 this Court issued notices to the accused persons of charge-sheets in Sl. No. 1, 5, 10, 13, 19, 22, 23, 36, 37, 42, 48 and 49. Out of those accused persons almost all appeared except the accused in Sl. No.5, 19 and 49.

Learned counsel appearing for the parties submit that they have no objection if an order is passed by this Court setting aside the order of the learned Additional Sessions Judge (Court No.5), West Tripura, Agartala, dated 13.08.2013, passed in Crl. Rev. P.12(2)/2013 and 13(2)/2013 and direct the leaned Judicial Magistrate, 1st Class, Court No.3, Agartala, Tripura West, for clubbing all the cases arising out of the FIR lodged by Shri Himangshu Sekhar Mandal, Branch Manager, Union Bank of India, Agartala Brach.

In view of the submission of the learned counsel for the parties, this court is of the considered opinion that it would be proper to direct the learned trial court for clubbing together all the charge-sheets and go for a common trial as that would save time of the court and it would be convenient for the accused persons to defend their case.

In view of the above and as agreed to by the learned counsel for the parties, the order of the learned Additional Sessions Judge dated 13.08.2013 is hereby set aside and the learned trial court i.e. the Judicial Magistrate, 1st Class, is directed for clubbing all the cases arising out of the FIR lodged by Shri Himangshu Sekhar Mandal i.e. the West Agartala PS Case No. 224 of 2006, subsequently numbered as GR 1250(A-1 to 50)/06 except GR 1250(A-4)/06 and GR 1250(A-49)/06 as those accused persons, namely Siraj Miah and Gopal Ch. Roy respectively expired, and proceed with the trial in accordance with law.

With the aforesaid order, both the Criminal Petitions are disposed of.