Item No. –1

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

Cril. Petn. No.4 of 2020

(Through Video Conference)

Ginzakham Vaiphei, aged about 63 years, S/o (L) Ngulzalian Vaiphei, a resident of Head Quater Veng, P.O. & P.S. Churachandpur, District Churachandpur, Manipur

... Petitioner/s

- Versus -

Shri. Thangboi Gangte, aged about 31 years, S/o (L) Chungkhomang, R/o Chiengkon Village, P.O. & P.S. Churachandpur (presently living at the quarters of S.D.O., Churachandpur).

... Respondents

BEFORE

HON'BLE MR. JUSTICE M.V. MURALIDARAN

For the petitioner	:	Mr. Thangchunghmung, Adv.
For the respondent	:	
Date of Hearing & Order	**:**	**06.07.2020**

JUDGMENT & ORDER

(ORAL)

The petitioner has filed the present criminal petition in Cril.Petition No.4 of 2020 seeking the prayers as follows:-

a) *To admit this Criminal Petition.*
b) *To call upon the learned Chief Judicial Magistrate, Churachandpur with sending a copy of this Criminal petition to show-cause as to why appropriate orders should not be passed by this Court against him concerning the functioning of his court and discharge of his official duties as judicial magistrate of the district.*
c) *To pass appropriate orders upon hearing the parties as on the fact and circumstances of the case and further pass/issue any such orders or direction as the Hon'ble court may deems fit, just and expedient in law, in the interest of justice.*

[2] The case of the petitioner is that on 27.11.2019, he has filed a private complaint before the Ld. Chief Judicial Magistrate, Churachandpur, Manipur and the same was taken on file by the Learned Chief Judicial Magistrate, Churachandpur, Manipur on the same day, but no order has been passed on the complaint.

[3] Therefore, he approached this Court and filed the present petition seeking the above prayers.

[4] When the matter was taken up, I already issued directions to the Ld. District & Sessions Judge, Churachandpur, Manipur on 25.02.2020 and to file a report before this Court and passed the following orders:-

> *" This Court by order dated 17.02.2020 directed the parties to approach the learned District & Sessions Judge, Churachandpur in the administrative side.*
>
> *Pursuant to the order dated 17.02.2020, the learned counsel for the petitioner reported that on 21.02.2020 a complaint has been given to the learned District & Sessions Judge,*

Churachandpur. But till date no action was taken. Therefore, the learned District & Sessions Judge, Churachandpur is directed to report before this Court about the action taken on the representation given by the petitioner on 21.02.2020.

Post the matter on 28.02.2020.

Registry is directed to communicate this order to the learned District& Sessions Judge, Churachandpur today itself and get the report. "

[5] Pursuant to the directions issued by this Court, the Learned Chief Judicial Magsitrate, Churachandpur, Manipur has given a reply to the Learned District & Sessions Judge, Churachandpur and thereafter on 26.02.2020, the Ld. District & Sessions Judge, Churachandpur sent a report to this Court which reads as follows:-

"GOVERNMENT OF MANIPUR

OFFICE OF THE DISTRICT & SESSIONS JUDGE,

CHURACHANDPUR, MANIPUR

***

No. 1-2014/DJ(CCP)/2020/77
Dated 26th February, 2020

To,
The Registrar (Judicial),
High Court of Manipur,
Mantripukhri, Imphal.

Subject: Action taken report on the representation endorsed to the Office of the District & Sessions Judge, Churachandpur by one Shri

Ginzakham Vaiphei in reference to Cril. Petn. No. 4 of 2020.
Ref. No. HCM/Cril Petn./4/2020/5419, Dated 25-02-2020.

Sir,

In reference to the above representation and in pursuance of the direction of the Hon'ble High Court of Manipur in Cril. Petn. No. 4 of 2020 (Shri Ginzakham Vaiphei… Petitioner Vs. Thangboi Gangte… Respondent), I have the honour to furnish herewith (as attached) steps taken by this court in connection with the representation addressed to this court by one Shri Ginzakham Vaiphei on 24-02-2020.

For favour of information and placing the same before his Lordship.

Thanking you.

Attached: As stated above.

Yours Sincerely,
(Kimneinieng Shoute)
District & Sessions Judge,
Churachandpur.

R E P O R T
Dated, 26-02-2020

On receipt of the representation addressed to the District & Sessions Judge, Churachandpur by one Sri Ginzakham Vaiphei on 24-02- 2020 in connection with a Complaint case that was intended to be filed before the Chief Judicial Magistrate, Churachandpur and rejected by the ld. CJM, Churachandpur and in pursuance of the direction of the Hon'ble High Court of Manipur in Cril. Petn. No. 4 of 2020

Details comments in connection with the said complaint of Shri Ginzakham Vaiphei was sought for to the ld. Chief Judicial Magistrate, Churachandpur vide letter no. 1/14-DJ(CCP)/2020/Dated. 24-02-2020 of this court.

The ld. Chief Judicial Magistrate made a report as follows:

"The complaint case of the complainant namely Shri Ginzakham was against a Public Servant namely Shri Thangboi Gangte, MCS who was the then SDO-Churachandpur and as all the alleged offence made against him are cognizable offence, hence, under section 197 Cr.P.C, Prosecution Sanction was required for proceeding the case against him. However, the complainant has failed to produce Prosecution Sanction against the said Thangboi Gangte inspite of repeated instructions. As such, the complaint could not be entertained before the court of CJM-Churachandpur in the absence of Prosecution Sanction against the said Shri Thangboi Gangte".

Under the circumstances, this office has directed the Chief Judicial Magistrate, Churachandpur to consider the matte expeditiously as per law in connection with the complaint of Shri Ginzakham Vaiphei.

The Court is further obliged to take further necessary steps if so directed by the Hon'ble High Court of Manipur.

District & Sessions Judge
Churachandpur"

[6] Thereafter, the matter has been listed today before this Court.

[7] Today, I heard Mr. Thangchunghmung, Ld. Counsel for the petitioner and when the matter is taken up, this Court posed a question to the Ld. Counsel for the petitioner whether the petitioner will be satisfied that if this Court will issue a suitable direction within a stipulated period of time.

[8] Accordingly, the Ld. Counsel for the petitioner also accepts and represented before this Court that the petitioner will be satisfied if this Hon'ble Court will be issued a suitable direction to the Ld. Chief Judicial Magistrate, Churachandpur, Manipur to take the complaint filed by the petitioner on 27.11.2019 and dispose of the same in accordance with law within a stipulated period of time.

[9] Admittedly, the petitioner has filed a private complaint in Cril.Complaint Case No. ,,,2019 dated 27.11.2019, but the Ld. Chief Judicial Magistrate, Churachandpur, Manipur has not passed any order on the complaint.

[10] It is admitted fact that once a complaint has been filed by any person, it is the bounden duty of the Ld. Chief Judicial Magistrate to pass appropriate order on the complaint either to take up the complaint on its file or passing appropriate order for rejecting the complaint. But, admittedly, in this case, the Ld. Chief Judicial Magistrate, Churachandpur, Manipur has not passed any order.

[11] When this Court issued a direction to the Ld. District and Sessions Judge, Churachandpur to call for the report from the Ld. Chief Judicial Magistrate, Churachandpur, it is reported by the Ld. Chief Judicial Magistrate,

Churachandpur, that a private complaint has been filed against a Government Officer. Therefore unless the complainant by namely the petitioner herein has obtained the sanction order under section 197 Cr.P.C., the complaint will not be taken on its file.

[12] On fair reading of the complaint, there is no whisper about mentioning of the respondent authority whether he is a Government authority or not, but even otherwise if the respondent has been shown as a Government authority, the Ld. Chief Judicial Magistrate cannot keep the complaint on its file without passing any order, but he/she must pass appropriate orders on the complaint received by him on 27.11.2019.

[13] In the above circumstances, once a complaint dated 27.11.2019 has been received by the Learned Chief Judicial Magistrate, Churachandpur, Manipur, it is the bounden duty to proceed the same in accordance with law as per Criminal Procedure Code.

[14] Therefore, without considering the complaint of the petitioner on merits or demerits, I am inclined to direct the Learned Chief Judicial Magistrate, Churachandpur, Manipur as follows:-

a) This Criminal petition is disposed of;

b) The Learned Chief Judicial Magistrate, Churachandpur, Manipur is directed to take the petitioner's complaint dated 27.11.2019 on its file and proceed in accordance with law as per Criminal Procedure Code;

c) The said exercise shall be done within a period of 3(three) months from the date of receipt of this order.

JUDGE

- Larson

FR/NFR

WAIKHOM TONEN MEITEI Digitally signed by WAIKHOM TONEN MEITEI Date: 2020.07.07 12:40:54 +05'30'