IN THE HIGH COURT OF MANIPUR
AT IMPHAL

Crl. Petn. No. 24 of 2014

1. M. Khuripou, aged about 54 years, S/o (L) Makuchung, resident of Lamdan Village, P.S. Loktak Project, District Churachandpur, Manipur.
2. Kamei Terence, aged about 34 years, S/o K. Latuongpou, resident of Lamdan Village, P.S. Loktak Project, District Churachandpur, Manipur.
3. Maringmei Katabuanpou, aged about 52 years, S/o (L) M. Lungthaorei, at present resident at Project Awang Bazar , P.S. Loktak Project, District Churachandpur, Manipur.
4. Pamei Pameijei, aged about 40 years, Khunbu, S/o (L) P. Khanglongui of Lamdan Village, P.S. Loktak Project, District Churachandpur, Manipur.

.... Petitioners

-Versus-

Mr. Pamei Dimpu, aged about 52 years, S/o (L) Pamei Jeidunlung, resident of Lamdan Village, P.S. Loktak Project, District Churachandpur, Manipur.

..... Respondent

BEFORE
HON'BLE MR. JUSTICE M.V. MURALIDARAN

For the petitioner	:	Mr. N. Umakanta, Advocate
For the respondent	:	Mr. S. Abung, Advocate
Date of hearing	:	22.01.2020
Date of Judgment & Order	**:**	**28.02.2020**

JUDGMENT & ORDER
(CAV)

[1] In the complaint case in Criminal Complaint No.6 of 2014 filed by the Respondent before the Learned Judicial Magistrate, 1st Class, Churachandpur now being sought to be quashed, the Respondent has not only made false claim but alleged commission of offences by the Petitioners when no complaint or report has been lodged by the alleged victim/individuals themselves. In the complaint case, the respondent falsely claimed himself to be the Secretary of Lamdan Village Authority when in fact he has already voluntarily resigned from Secretaryship as far back as 21.10.2013. The Respondent made another claim that the Petitioner No.1 and the Petitioner No.2 herein are self styled Chief and Secretary of Lamdan Village which again are clearly false in view of the Petitioner No.1 being appointed as the Chief/Khullakpa of Lamdan Village by an unanimous verdict by the Special General Body Meeting of Lamdan Village by an unanimous verdict by the Special General Body Meeting of Lamdan Village held on 08.06.2013 and such appointment of the Petitioner No.1 as Chief/Khullakpa has been ratified and approved by the Deputy Commissioner, Churachandpur after a thorough enquiry vide her order dated 21.01.2014. Thereafter, the name of the Petitioner No.1 has been officially entered and recorded in the Govt. Records/Tauzi Books as per the order of the SDO, Henglep dated 05.02.2014.

[2] The Petitioner No.1 is still the secretary of Lamdan Village Authority, when the Petitioner is not having voluntarily resigned as far back as on 21.10.2013 when the Petitioner submitted a self written resignation application which was eventually accepted by the Lamdan Village Authority members. Thereafter the present Petitioner No.2 was appointed as Secretary of Lamdan Village Authority in a General Body Meeting of Lamdan Village held on 17.03.2014. The Respondent completely made a false claim of being the Secretary in the complaint petition when in fact he has stopped functioning as such since 21.10.2013. The Petitioner Nos.1 and 2 are self styled Chief/Khullakpa and Secretary of Lamdan Village when infact, the Petitioner No.1 is duly appointed Chief/Khullakpa of Lamdan Village on being appointed as such by a General Body Meeting held on 08.06.2013 and his appointment has been ratified and recognized by the State Authorities i.e., Deputy Commissioner, Churachandpur vide her order dated 20.01.2014 and Petitioner No.1 has been entered and recorded in the official records/Tauzi Book of the State Authorities vide the SDO, Henglep order dated 05.02.2014.

[3] One Maringmel Acham, the son of the earlier Chief was disheartened by the appointment of the Petitioner No.1 as the Chief of Lamdan Kabui Village and started harbouring a grudge, hatred and

revengefulness against the Petitioners. Accordingly, by forging his father's signature he raised objection to the appointment of the Petitioner No.1 as Chief before the Deputy Commissioner, Churachandpur. The Deputy Commissioner Churachandpur also conducted an thorough enquiry regarding the appointment of Petitioner No.1 as the Chief/Khullakpa of Lamdan Kabui Village wherein the Deputy Commissioner not only gave both the parties to present their cases but also conducted an independent enquiry by ordering the SDO, Henglep to make a spot visit and find out all actual facts. The direction to the SDO, Henglep was made by the Office of the Deputy Commissioner, Churachandpur made spot filed visit and submitted his enquiry report to the Deputy Commissioner. As per the enquiry report of the SDO, 57 households of the total 87 households of Lamdan Kabui Village supported the claim and appointment of Petitioner No.1 as the Chief/Khullakpa of Lamdan Kabui Village.

[4] The Deputy Commissioner, Churachandpur after gathering all informations through her subordinates and also after holding a lengthy enquiry came to a finding that the Petitioner No.1 has been properly appointed as the Chief/Khullakpa of Lamdan Kabui Village and accordingly, the appointment being in order was approved and the Petitioner No.1 was also given recognition as the Ex. Officio Chairman of

the Lamdan Village Authority. In the order bearing No.DC(CCP)/HILLS/2013-49 dated 20.01.2014 passed by the Deputy Commissioner, Churachandpur. In view of the aforesaid order the name of the earlier disposed Chief, i.e. Marignmei Thaithoungam has been deleted from the official records i.e. the Tauzi Book and the name of the Petitioner No.1 has been entered in all the official records. In view of the Respondent resigning from his post of Secretary Lamdan Village Authority, a General body meeting of Lamdan Village was held on 17.03.2014 the Petitioner No.2 and other new village authority members were appointed as the Secretary and members of Lamdan Village Authority.

[5] Maringmel Acham desires and he can bears a deep grudge and hatred against the Petitioners especially Petitioner No.1 on becoming Chief after removal of his father. In view of the Learned Magistrate Court taking cognizance of the false complaint, the Petitioners have been summoned, directed to give securities and sureties and in one case, warrant being issued for appearance. In other words, the Petitioners have been simply harassed because of the false complaint. Besides the pendency of the false complaint case has made them apprehensive of carrying out their official duties as village authority members thereby depriving the villagers of their service.

[6] The Genesis of the complaint case arose from the fact that after the Petitioner/Accused No.1 was appointed as the Chief/Chairman of Lamdan Kabui village in view of the earlier in-charge-chief becoming disqualified to continue as Chief in view of the customary disqualification, a conspiracy was hatched between the earlier in-charge-chief, his son namely Maringmei Acham and the Respondent to create problem for the present Petitioners who are Village authority member with the Petitioner No.1 the Chief from executing their lawful duty and function. There is a long pending feud between the present Petitioner/Accused No.1 was appointed as Chief by the majority villagers in a Special General Body meeting of the village. The proceedings of the Special General Body Meeting appointing the present Petitioner/Accused No.1 as Chief was challenged before the customary Court as well as before the Deputy Commissioner Churachandpur but without any success. Thereafter a Civil Suit was also filed by the dislodged Chief to declare him to be still the Chief of the Village while restraining the present Petitioner/Accused No.1 from acting as Chief but without success. In the meantime, the earlier dislodged Chief expired and the litigation was continued by his above mentioned son but without any success as the Learned District Court as well as the Hon'ble High Court refused to entertain any of the claim filed by the aforementioned son of the dislodged in-charge-chief.

However inspite of all the forums refusing to entertain the false claim made by the aforementioned son of the deceased dislodged in-charge-chief to usurp the Chieftainship for the present Petitioner/Accused No.1 he along with the Respondent started making false and absurd claim of being the Chief and Secretary respectively of Lamdan Kabui Village so as to disturb and interfere with the duty and function of the Petitioners forcing the Petitioner and the real Secretary of Lamdan Kabui Village. The Petitioners filing an injunction suit against the above named son of the dislodged in-charge-chief and the present Complainant/Respondent. The temporary injunction order has not been interfered with by the Higher Courts till date.

[7] Having failed in the endeavour to disturb and interfere with the lawful duty and function of the present Petitioners as Chief/Chairman and also the other Petitioners who are the Village Authority member of the villages, the present Respondent as Complainant filed the above mentioned complaint case falsely claiming himself to be the Secretary while stating that the present Petitioners 1 and 2 are not the Chief and Secretary of Lamdan Kabui village. In this regard, the present Respondent has already resigned from being the Secretary by his own self resignation application dated 21.10.2019 while the present complaint case was filed on 12th May 2014 after more than 7 months. The

Petitioner Nos.1 and 2 as can be evident, has been accepted and recognized as Chief and Secretary of Lamdan Kabui Village since 08.06.2019 with the latest notification for the new term issued vide Govt. Gazette Notification dated 16.08.2019. Thus the claim of the Respondent that he is the Secretary is completely false besides the complaint alleged in the Petition are regarding cutting down of trees in the forest and threatening of some other person which has nothing to do with the present Respondent even assuming the same to the true. Accordingly, it is amply clear that the complaint case against the present Petitioners has been filed with ulterior motives for personal reasons while also disclosing commitment of no offence.

[8] The Petitioner No.1 was appointed as the Chief/Khullakpa of Lamdan Kabui village on 08.06.2013 in a Special General Body Meeting of the Lamdan Kabui village after the earlier Chief/Khullakpa became disqualified to continue as Chief of the village after he became a widower as the Zeliangrong customs and practice to which the Lamdan Kabui village belongs, bars the continuance of a Chief on his becoming a widower.

[9] It will be pertinent to mention here that the Petitioner No.1 is the direct descendant of the founder of the Lamdan Kabul Village and accordingly, is true Claimant to the Chiefship, but his appointment was

deferred at that time as he was still a minor while his father, because of poor health, could not assume the Chiefship and accordingly the Chiefship was allowed to be assumed by clan members, including the immediate disposed Chief namely Maringmei Thaitoungam until the Petitioner No.1 attend majority.

[10] The recording of the proceedings of the Special General Body Meeting appointing the Petitioner No.1 as Chief/Khullakpa was done by the Respondent himself, who was still then, the Secretary of Lamdan Village Authority.

[11] Pursuant to the appointment of the Petitioner No.1's appointment as Chief/Khullakpa of Lamdan Kabui village, the Respondent who was then the Secretary of Lamdan Village Authority submitted the same to the Deputy Commissioner, Churachandpur for recognition and approval vide his office letter dated 15.07.2013.

[12] The customary Court of the Ziliangrong Union, Churachandpur zone after adjudicating the dispute and objection between the Petitioners and the aforesaid Maringmei Acham, son of the disposed earlier Chief, passed an order on 28.10.2013 whereby the appointment of the Petitioner No.1 as the Chief/Khullakpa of Lamdan Kabui village was

found to be in order and accordingly upheld while the Maringmei Acham's objection was rejected as without any basis.

[13] Likewise in view of the aforesaid Marignmei Acham raising objection, before the Deputy Commissioner, Churachandpur the Deputy Commissioner, Chaurachandpur also conducted an thorough Enquiry regarding the appointment of the Petitioner No.1 as the Chief/Khullakpa of Lamdan Kabui village wherein the Deputy Commissioner, Churachandpur not only gave both the parties to present their cases but also conducted an independent enquiry by ordering the SDO, Henglep to make a spot visit and find out all actual facts. The direction to the SDO Henglep was made by the office of the Deputy Commissioner, Churachandpur vide her office letter bearing No.DC(CCP)HILLS/2013-49/734 dated 23.12.2013.

[14] The Deputy Commissioner, Churachandpur after gathering all informations through her subordinates and also after holding a lengthy enquiry wherein both the contesting parties were afforded chance to present their cases came to a finding that the Petitioner No.1 has been properly appointed as the Chief/Khullakpa of Lamdan Kabui Village and accordingly, the appointment being in order was approved and the Petitioner No.1 was also given recognition as the Ex.Officio Chairman of the Lamdan Village Authority.

[15] In view of the aforesaid order dated 20.01.2014, the name of the earlier disposed Chief, i.e Maringmei Thaithoungam has been deleted from the official records, i.e., the Tauzi Book and the name of the Petitioner No.1 has been entered in all the official records as ordered vide order bearing No.6/SDO/HLP/CT/12/72-2 dated 05.2.2014 issued by the SDO, Henglep.

[16] In the meantime, the present Respondent who was still then working as the secretary of Lamdan village authority submitted an application dated 21.10.2013 requesting for allowing him to resign from the post of Secretary, Lamdan Village Authority.

[17] Here, it will be pertinent to mention that the Respondent had also earlier sought for resignation but on the persuasion of the Petitioner No.1 the earlier resignation request was withdrawn.

[18] In view of the Respondent resigning from his post of Secretary, Lamdan Village Authority, a General Body Meeting of Lamdan Village was held on 17.03.2014 during which the Petitioner No.2 and other new village authority members were appointed as the Secretary and members of Lamdan Village Authority. Pursuant to the institution of the complaint case, the Learned Magisterial Court after taking statements of the Respondent and the aforesaid Maringmei Acham, who acted as the

witness, clearly showing this collusion summoned the Petitioners vide her order dated 12.05.2014.

[18] Therefore this Petition is filed u/s.482 of Cr.P.C. to quash the proceedings of the Complaint case filed by the Respondent.

[19] The relevant dispute for the Petitioner still has three more higher Courts to confirm his claimed and section 15 of C.P.C. asserts that every suit shall be filed in the Lowest Court, so jurisdictional flaw may arise and if the Complainant is the responsible head of the village, why he and his partners in crime cut down trees belonging to common forest continuous from 26.02.2014 till the months of April, 2014 sold out without common consent of the villagers and also destroying forest covering about 4/5 hectares of Loktak catchment area. Further, the Manipur Forest Rules, 1971 section 23 prohibited cutting of trees such, as places like Loktak catchment areas. The onus lies on the Petitioner complainants why they failed to appear before the relevant CJM Court. Counter in exercise of judicial review cannot interfere with finding of factor if it is based on certain evidence and proceed to examine the matter as an appellate authority by re-appreciating the evidence on record. The factors of taking cognizance by the Learned C.J.M. Churachandpur was reliable and lawful. But the petitioner complainants on flimsy ground failed to appear

before the concerned Magistrate when summons was served to appear before him, henceforth security bonds of Rs.20,000/- were enforced to ensure appearance before him.

[20] The Petitioners have misguided the court by giving up irrelevant matters about their civil case. But what matter in this Complainant Petitioner is whether they have committed the offences above mentioned and why they failed to appear before the concerned Magistrate in the relevant time and date henceforth they were burden with the bond as their security of compulsory appearance before the relevant Magisterial Court.

[21] The learned counsel for the parties cited the following citations in support of their submissions.

1) AIR 1992 SCC 604
2) (2012) 10 SCC 303
3) (2014) 6 SCC 466
4) (2017) 9 SCC 641

[22] I have given my careful consideration to the respective submission made by the learned counsel for both parties and perused the relevant records.

[23] The basic thrust of the argument advanced on behalf of the Petitioner is confined to the point that the complainant-opposite party

moved false application after concealing material and relevant facts relating to the actual transaction that took place. The dispute is basically of civil nature and it has been deliberately categorized as a criminal offence. Opposite party cannot be allowed to mischievously embark on criminal proceeding by imputing criminal intent on the part of the applicants, whereas, opposite party without any basis and out of vengeance, has concocted altogether false story of assault being caused to him at the hands of the applicants and has deliberately tried to conceal the material facts regarding full and final payment in the money suit.

[24] Learned counsel further submitted that no relevant papers have been brought on record which may justify the claim and which may reveal the very manner of committing forgery. No worth papers have been produced that may give inference to allegation that the actual payment stood. He further submitted that in absence of details and particulars regarding the very manner of committing fraud, the only fact that comes out, shows shrewdness in cleverly drafting of complaint by misusing the process of law.

[25] Learned counsel further added that all the relevant particulars of the fraud have been specifically stated in the complaint. The very facts alleged in the complaint by prima facie make out offence and the order

passed by the learned Magistrate dated as a complaint (and the summoning order passed by the Magistrate, in pursuant thereto is wholly justified. The course of action adopted by the complainant cannot be termed as misuse of process of law.

[26] In view of the above rival submissions, the moot point which arises for consideration before this Court qua the fact is whether the application moved by the complainant before the learned Magistrate is confined to civil dispute and the course of action so adopted is misuse/abuse of process of the Court?

[27] As per claim of the applicants, they have urged that the controversy in issue is one basically of civil nature and this fact is amply borne out by perusal of the contents of the complaint.

[28] Perusal of the statement of the complainant and witness recorded under Sections 200 and 202 Cr.P.C. respectively, in support of the complaint reveals that no whisper regarding manner of committing forgery has been made which may give credence to the money claim. Perusal of the record further shows that as per annexures appended to the present application, the matter has been finally settled amicably. It is surprising that after the Petitioners had made it specific allegations regarding the respondent.

[29] It has to be seen that the proceedings of the Special General Body Meeting appointing the present Petitioner/Accused No.1 as Chief was challenged before the customary Court as well as before the Deputy Commissioner, Churachandpur but without any success. Thereafter, a Civil Suit was also filed by the dislodged Chief to declare him to be still the Chief of the Village while restraining the present Petitioner/Accused No.1 from acting as Chief but without success. In the meantime, the earlier dislodged Chief expired and the litigation was continued by his above mentioned son but without any success as the Learned District Court as well as the Hon'ble High Court refused to entertain any of the claim filed by the aforementioned son of the dislodged in-charge-chief. However inspite of all the forums refusing to entertain the false claim made by the aforementioned son of the deceased dislodged in-charge-chief to usurp the Chieftainship for the present Petitioner/Accused No.1 he along with the Respondent started making false and absurd claim of being the Chief and Secretary respectively of Lamdan Kabui Village so as to disturb and interfere with the duty and function of the Petitioners forcing the Petitioner and the real Secretary of Lamdan Kabui Village. The Petitioners filing an injunction suit against the above named son of the dislodged in-charge-chief and the present Complainant/Respondent. The temporary injunction order has not been interfered with by the

Higher Courts till date. Hence, the contention of the learned counsel to the extent that the dispute specifically relates to the civil nature is predominantly established. This fact is amply borne out by the admission of the respondent himself as made in the counter affidavit wherein it has been stated in categorical term that full and final payment has been made between the complainant and the petitioners.

[30] On careful scrutiny of record, I could not come across even a single piece of paper which could elaborate on the point and the complainant has not come out with real facts and is guilty of suppressing and concealing material facts, carries force.

[31] Now the point which attracts attention of the Court relates to the fact that the complainant has not made specific and particular allegations about the role of the applicants for committing forgery in the payment of total amount of payment to be made. In view of above facts, the case in hand basically assumes civil nomenclature instead of being criminal offence. This fact certainly escaped attention of the learned Magistrate while scrutinizing the relevant material at his end in true perspective. It was incumbent upon the court below to have first discovered the basic nature of the dispute which altogether involves question of actual payment. It is apparent that the dispute between the parties is predominantly of civil wrong and the complainant has deliberately

introduced the story of assault in order to wreck vengeance. The present controversy bears nomenclature of civil wrong which, per se, predominates the controversy then the dispute will not be branded a criminal offence as has been laid down by the Hon'ble Apex Court in the case of GHCL Employees Stock Option Trust Vs. India Infoline Ltd. (2013) 2 SCC (Crl) 414. The relevant paragraph no.13 of the said decision is extracted as follows:

> *"There is no dispute with regard to the legal proposition that the case of breach of trust or cheating are both a civil wrong and a criminal offence, but under certain situations where the act alleged would predominantly be a civil wrong, such an act does not constitute a criminal offence."*

[32] Now the point which crops up for consideration whether the proceedings in Cril. Complaint initiated at the instance of the complainant is sheer misuse of the process of law or not? The inherent power under Section 482 Cr.P.C is not to be exercised by this Court generally to stifle the legitimate prosecution but here the prosecution has been launched, in concealment of material facts in the name of wrecking vengeance on the applicants. The complainant very cleverly chose to brand a civil dispute as criminal offence. It is obvious that the entire proceedings initiated at the instance of the complainant is in abuse of the process of the Court and the ends of

Justice requires that such proceedings which have been initiated with an ulterior motive should not be allowed to go unchecked as that would adversely affect the ends of Justice. At this stage, when the dispute in question is discovered to be predominantly of civil nature then an attempt to make it criminal offence should be thwarted and discouraged. The payment made in full satisfaction of the transaction is to be ascertained on the face of evidence and documents which may be scrutinized by the civil court of the competent jurisdiction. The complainant instead of choosing proper forum for realization of the claimed outstanding amount, has chosen a different path which will not serve the ultimate purpose of full payment. The dispute in question is purely of civil nature and the proceedings in question are discovered to be misuse of the process of the Court and the same cannot be allowed to go on any further.

[33] In this context, it is relevant to mention the observations of the Hon'ble Apex Court made in the case of Inder Mohan Goswami and another Vs. State of Uttaranchal and others 2008 (60) ACC page1, in paragraph no.28 which is extracted hereinbelow:

> *"This Court in State of Karnataka v. L. Muniswamy & Others, (1977) 2 SCC 699 observed that the wholesome power under section 482, Cr.P.C entitles the High Court to quash a*

proceeding when it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed. The High Courts have been invested with inherent powers, both in civil and criminal matters, to achieve a salutary public purpose. A court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. The Court observed in this case that ends of justice are higher than the ends of mere law though justice must be administered according to laws made by the legislature. This case has been followed in a large number of subsequent cases of this Court and other Courts."

[34] Accordingly, I am inclined to allow this petition.

[35] In the result,

a) this Crl. Petn. No.24 of 2014 is allowed.

b) the criminal complaint case No.6 of 2014 on the file of the Learned Judicial Magistrate, 1st class, Churachandpur is quashed.

JUDGE

FR/NFR

-Larson

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