

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CR(P) No. 1 of 2013

17.05.13

Heard Mr. GS Massar, the senior learned counsel assisted by Mr. L Khyriem, the learned counsel for on behalf of the petitioner as well as Mrs. B. Goyal, the learned counsel for the respondent.

At the outset, the learned counsel for the respondent has pointed out that as per Rule-28 of the United Khasi Jaintia Autonomous District (Administration of Justice) Rules, 1953, all appeal shall lie before the District Council Court. Hence, this instant petition may be remanded back to the Court of District Council.

Mr. GS Massar, the senior learned counsel fairly admitted in principle that as per Rule-28, appeal lies before the District Council Court. The instant petition was moved before the High Court since District Council Court had holidays during the winter vacation, hence, compelled the parties to approach this Court.

I have perused Rule-28 which is reproduced below:

“Rule. 28 :- Appeal to District Council Court, – An appeal shall lie to the District Council Court from the decisions of a Subordinate District Council Court in any case, civil or criminal.”

If it is so, it is apparent that District Council has the jurisdiction, therefore it is definitely to be decided by the District Council Court.

Accordingly, the matter is remanded back to the Judge of the District Council to decide the matter in accordance with law as expeditiously as possible as the parties are fighting of their possession. Delay may causing frustration on either parties which may unnecessarily create law & order problems.

As an ad-interim measure, till the matter is taken up by the Judge District Council Court, both the parties are directed to maintain possession on their own as on the date of injunction order passed and not to disturb each other or cause law & order problem.

The learned Judged District Court is also further directed that till disposal of the case, he should pass necessary direction to both the parties to maintain their

possession in such a way so that nobody is deprived or affected during the pendency of the petition till its disposal. It also further directed that the learned Judged District Court to consider this instant petition as an Appeal.

Registry is directed to roll back the case record to the concerned Court along with a copy of this order within 48 hours.

Let both the parties appear the District Council Court on 4.06.13.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
AB(SH) No. 56 of 2013

17.05.13

Heard Mr. R Gurung, the learned counsel for the petitioner.

Bail application will be considered after perusal of CD.

Call for CD.

In the event of arrest, the alleged accused to be released with a sum of Rs. 20,000/- with one surety of the like amount.

Interim bail shall continue till disposal of the bail application.

However, it is also observed that the petitioner should not unnecessary approach High Court but the party to take initial course in the first forum. Though granting anticipatory bail Under Section 438 concurrent power of Session Court as well as High Court, I am of the opinion that it will be advisable, bail application to be moved first before the Session Judge. In case of any difficulty, they can approach High Court.

Mr. S Sen Gupta, the learned Addl. PP is present in the Court.

List this matter on 21.05.13 as suggested by the learned counsel for CD and Hearing.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
AB(SH) No. 57 of 2013

17.05.13

Heard Mr. B Debroy, the learned counsel for the petitioner as well as Mr. S Sen Gupta, the learned Addl. PP.

Bail application will be considered after perusal of CD.

Call for CD.

In the event of arrest, the alleged accused be released with a sum of Rs. 50,000/- with one surety of the like amount.

Interim bail shall continue till disposal of the bail application.

List this matter on 23.05.13 for CD and Hearing.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
Crl. MC (SH) No. 31 of 2013 in
Crl. Appeal (SH) No. 1 of 2013

17.05.13

Heard Mr. NM Mansuri, the learned counsel for the applicant who submits that the accompanying appeal bearing No. Crl. Appeal (SH) No. 1 of 2013 could not be filed in time due to some financial constrain. Besides that the accused resides in Khanapara having some family problems and he is the only member of the family, as a result he could not file the appeal in time, so delay may be condoned.

Mr. S Sen Gupta, the learned Addl. PP is present in the Court and he has no objection to condone the delay.

Considering the submissions advanced by the learned counsel, I am of the opinion that it is the primary duty of the Court to render substantial justice and not to shut the door of justice due to some technicalities.

Therefore, considering the reasons of delay as submitted by the learned counsel for the petitioner taking into consideration the submission advanced by the prosecution having no objection, the delay of 76 days is hereby condoned and the petition stands disposed of.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
MC(SH) No. 1 of 2013 in
CR(P) No. 1 of 2013

17.05.13

In the light of the order passed in the Main Case No.
CR(P) No. 1 of 2013, this Misc. Case also stands disposed of.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
MC(SH) No. 110 of 2013 in
CR(P) No. 1 of 2013

17.05.13

In the light of the order passed in the Main Case No.
CR(P) No. 1 of 2013, this Misc. Case also stands disposed of.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
Crl. Appeal (SH) No. 1 of 2013

17.05.13

Heard Mr. NM Mansuri, the learned counsel for the petitioner.

Immediately after disposal of condonation of delay, this matter came up for consideration.

This instant appeal is taken up for consideration and the appeal is hereby admitted.

Call for Lower Court case record.

In the meantime, the petitioner counsel is directed to prepare the paper book with assistance of Registry.

List this matter on 7.06.13 as suggested by prosecution.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CrI. MC(SH) No. 32 of 2013 in
CrI. Appeal (SH) No. 1 of 2013

17.05.13

Heard Mr. NM Mansuri, the learned counsel for the petitioner.

This matter will be taken up along with the Main Petition on 7.06.13.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
Cont. Case (SH) No. 11 of 2013

17.05.13

Heard Mrs. B. Goyal, the learned counsel for the petitioner.

Issue notice to the respondents to show cause as to why this instant petition should not be considered and why such other order or orders should not be passed as this Court may deem fit and proper.

Notice is made returnable within 3(three) weeks.

The learned counsel for the petitioner to take necessary steps to serve notice upon the respondents within 2(two) days.

List this matter on 7.06.13.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
Crl. Revn.P (SH) No. 57 of 2012

17.05.13

Heard Mr. SG Momin, the learned counsel for the petitioner who submits that on the basis of the police report dated 11.10.02, a proceeding was drawn by the Addl. District Magistrate, West Garo Hills, Tura under Section 145 and 107 CrPC.

Notice was issued to the parties.

On the basis of the notice the second party appeared, no hearing taken place. Thereafter, no date has been fixed and to the utter surprise of the petitioner the Addl. District Magistrate, West Garo Hills, Tura passed an impugned order dated 1.11.12 in favour of the first party without being heard of the second party.

Lower Court case record has been placed before the Court.

I have perused the Lower Court case record. On perusal of the Lower Court case record, I do not find anywhere about the proceeding dated 4.10.12 or fixing subsequent date for hearing rather the Magistrate concerned on 1.11.12 has passed judgment and pronounced in open Court. It shows that the Magistrate has totally failed to render justice by depriving the second party without being heard which is highly irregular and against principle of natural of justice, as such, such order has no stand in the eye of law and bad in law.

Mr. H. Kharmih, the learned counsel for the respondent appearing on behalf of first party submits that the matter is civil in nature, so the parties may approach Civil Court.

Mr. S Sen Gupta, the learned state counsel is present and submits that he has no submission before the Court.

After considering the submissions advanced by the learned counsel for the parties, I observed that the Court is not to advise to which court to which forum the parties to approach but I am concerned of the impugned order dated 1.11.12. From the foregoing discussion, I find that the impugned order is not in accordance with law and such the

order needs to be set aside which I hereby accordingly do and remanded back the matter to the concerned Court for hearing both the parties afresh and to pass necessary order in accordance with law, giving equal opportunities to the parties and to maintain the case record.

In the meantime, both the parties are directed to maintain peace and harmony and not to disturb each other in any manner.

Registry is directed to roll back the Lower Court case record to the Court concerned along with a copy of this order immediately.

With these observations and directions, the matter stands disposed of.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CrI. MC (SH) No. 56 of 2012 in
CrI. Revn.P (SH) No. 57 of 2012

17.05.13

In the light of the order passed in the Main Case No. CrI. Revn.P.(SH) No. 57 of 2012, this Misc. Case also stands disposed of.

JUDGE

V. Lyndem.

