

(2014) 06 TP CK 0055
In the Tripura High Court
Case No : Crl. Petn. 01 of 2010

Nowratan Pugalia VsThe State of Tripura

Date of Decision : 23-06-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 34 406

Citation : (2014) 06 TP CK 0055

Hon'ble Judges : S.C. Das, J

Bench : Single Bench

Advocate : A.K. Bhowmik, Sr. Advocate and R. Datta, Advocate for the Appellant; A. Ghosh, P.P, Advocate for the Respondent

Judgement

S.C. Das, J.—By filing this petition u/s 482 of Cr.P.C., the petitioner prayed for quashing criminal proceeding in Case No. G.R. 480 of 2008 initiated against them through lodging of FIR by one Kalyan Bhattacharjee, Enforcement Officer of Employees' Provident Fund Organization.

2. Heard learned senior counsel, Mr. A.K. Bhowmik assisted by learned counsel Mr. R. Datta for the petitioners and learned P.P., Mr. A. Ghosh for the respondent, the State of Tripura.

3. At the very outset, learned senior counsel, Mr. Bhowmik has submitted that this case is well covered by Judgment of this Court in Crl. M.C. No. 5 of 2005 (Sri Navratan Pugalia & Anr. vs. The Enforcement Officer & Another), Judgment dated 27.09.2013 and the case of Crl. Rev. P. No. 71 of 2009 (Sri Suresh Kumar Choudhury vs. The State of Tripura), Judgment dated 04.06.2014. In view of the ratio of those Judgments, learned senior counsel prayed for disposal of the present case also.

4. Learned P.P., Mr. Ghosh fairly admitted that this case is a covered case of those two cases and in view of the Judgments in those earlier two cases, this case also may be disposed of by a similar Judgment.

5. Learned senior counsel, Mr. Bhowmik has submitted that the petitioner No. 1

is the Managing Director and petitioner No. 2 is an authorized officer of Ranibari Tea Estate and as per the provisions of Employees' Provident Fund Act, they were supposed to deposit the contribution towards provident fund of the employees in time, but they have failed to make deposit of an amount of Rs. 5,07,252/- in time, when it was lying due to be paid during the period from April, 2007 to July, 2008. As a result of non-payment in time, the Enforcement Officer of Employees' Provident Fund Organization lodged an FIR against the petitioners on 24.09.2008 before O.C., Kadamtala P.S. and accordingly, Kadamtala P.S. Case No. 34 of 2008 u/s 406 read with Section 34 of IPC was registered on 24.09.2008 and police after investigation submitted charge sheet before the learned SDJM, Dharmanagar on 04.06.2009. It is submitted by learned senior counsel, Mr. Bhowmik that before submission of charge sheet itself, during the year 2008, the accused-petitioners deposited the entire due amount at different installments and the Employees' Provident Fund Organization accepted the amount. It is also submitted that due to financial crunch, the contribution towards Employees' Provident Fund could not be deposited by the accused-petitioners in time and before filing charge sheet itself, the full amount was deposited and so, the criminal proceeding has become redundant.

In support of his contention, learned senior counsel, Mr. Bhowmik referred the case laws of Narendra Pratap Narain Singh and another Vs. State of U.P., Provident Fund Inspector, Faridabad Vs. Jaipur Textile, Faridabad and Others, and Adoni Cotton Mills Ltd. and Others Vs. Regional Provident Fund Commissioner and Others,

6. Learned P.P., Mr. Ghosh with all his fairness has submitted that since the petitioners already deposited the amount lying due to be paid, the criminal proceeding has become redundant and so, the criminal proceeding may be closed.

7. I find charge sheet was filed in the Court on 04.06.2009 for commission of offence punishable u/s 406 read with Section 34 of IPC. Learned Magistrate by order dated 04.06.2009 taken cognizance and proceeded further for trial of the case. Since the payments were already made in the year 2008 before submission of charge sheet and since it is submitted that the criminal proceeding has become redundant in view of payment of the entire amount during the course of investigation itself, I think, the criminal proceeding may be closed accepting the submission of learned counsel of both side and in view of the ratio of the decision of the Apex Court in the cases referred to above and precious decision of this Court in similar other cases such as CrI. M. C. No. 5 of 2005 and CrI. Rev. P. No. 71 of 2009.

8. Accordingly, the Criminal proceeding of G.R. 480 of 2008 between the State of Tripura and the petitioners is quashed. Accused-petitioners are discharged.

9. Send back the L.C. records along with a copy of this Judgment.