

(2022) 11 GAU CK 0003
In the Gauhati High Court
Case No : Criminal Petition No. 792 Of 2015

Shiv Kumar Kanoi

APPELLANT

Vs

State Of Assam And Anr

RESPONDENT

Date of Decision : 03-11-2022

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482
Assam Tea Plantations Provident Fund and Pension Fund and Insurance Fund Scheme
Act, 1955 — Section 7(2)
Indian Penal Code, 1860 — Section 406, 409

Citation : (2022) 11 GAU CK 0003

Hon'ble Judges : Parthivjyoti Saikia, J

Bench : Single Bench

Advocate : S.K. Goswami, N.C. Das

Final Decision : Allowed

Judgement

1. Heard Mr. S.K. Goswami, the learned counsel appearing for the petitioner. Also heard Mr. N.C. Das, the learned senior counsel representing the respondents.

2. This is an application under Section 482 of the Code of Criminal Procedure whereby the proceedings of the Complaint Case No.186/2012 in respect of the present petitioner Shiv Kumar Kanoi, pending in the court of the learned Chief Judicial Magistrate, Cachar, Silchar is sought to be quashed.

3. The petitioner is one of the Directors of Sree Kamakhya Tea Company Pvt. Ltd., registered under the Companies Act having registered office at 4 Hasting Park Road, Alipore, Kolkata. The company owns a Tea Garden by the name and style "Craigpark Tea Estate" situated in the district of Cachar, Silchar. Shri Soumendu Mukherjee is the Manager of the said Tea Garden.

4. Shri Nirmal Roy Choudhury, Inspector and Assistant Provident fund Commissioner, Assam Tea Plantation Provident Fund, Pension Fund and Deposit Linked Insurance Scheme had filed a complaint against the petitioner and Shri

Soumendu Mukherjee alleging that during the period starting from 06.02.2011 to 30.06.2012, they have deducted Provident Fund Contribution from the employees of the Garden, amounting to ₹ 13,18,648.64 (Rupees Thirteen Lakh Eighteen Thousand Six Hundred Forty-Eight and Sixty-Four Paise only). But the said amount was not deposited with Assam Tea Plantation Provident Fund, Pension Fund and Deposit Linked Insurance Scheme.

5. Therefore, under Section 7(2) of the Assam Tea Plantations Provident Fund and Pension Fund and Insurance Fund Scheme Act, 1955 and under Section 406 and 409 of the Indian Penal Code, the complainant filed the complaint.

6. The present petitioner has submitted that he being one of the Directors of the Company, is not directly involved with day-to-day business of the Tea Garden. The petitioner further submitted that the money has already been deposited with the Assam Tea Plantation Provident Fund, Pension Fund and Deposit Linked Insurance Scheme.

7. The learned senior counsel Mr. Das has admitted that the money has already been deposited by the Tea Garden.

8. I have given my anxious considerations to the submissions made by the learned counsel of both sides.

9. The complaint was made because the contributions of Provident Fund were not deposited with proper authority. Now, it is an admitted fact that the money has already been deposited, though at a belated stage. Since the money has already been deposited by the Tea Company, nothing survives against the present petitioner.

10. There is no possibility of future conviction of the petitioner in this case. Under the given circumstances of the case, allowing the criminal proceeding to proceed against the petitioner would be nothing but abuse of the process of this Court and law does not allow such an exercise. This Court is of the opinion that this is a fit case for exercising power under Section 482 of the CrPC. Accordingly, the Complaint Case No.186/2012, pending in the court of the Chief Judicial Magistrate, Cachar, Silchar in respect of the present petitioner Shiv Kumar Kanoi is quashed.

11. The criminal petition is allowed and disposed of.