

GAHC010013962023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./63/2023

ARJUN PANDEY
S/O SRI BHAKTA RAJ PANDEY
R/O DIGBOI, KALIBARI, RS AREA,
NEAR MONTESSORI SCHOOL,
DIGBOI, ASSAM-786171

VERSUS

THE STATE OF ASSAM AND ANR
THROUGH THE BUREAU OF INVESTIGATION ECONOMIC OFFENCE
(BIEO), GMCH ROAD,
SRIMANTAPUR, CHILARAI NAGAR,
GUWAHATI-781007

2:BANK OF INDIA
A BODY CORPORATE CONSTITUTED UNDER THE BANKING COMPANIES
(ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT
1970 AND HAVING ITS HEAD OFFICE AT STAR HOUSE
C-5
G BLOCK
BANDRA KURLA COMPLEX
BANDRA EAST- MUMBAI-400051
CARRYING ON BANKING BUSINESS AT DIFFERENT PLACES ALL OVER
INDIA
INCLUDING A ZONAL OFFICE AT SAIKIA COMMERCIAL COMPLEX
SREE NAGAR
G.S. ROAD

GUWAHATI
ASSA

Advocate for the Petitioner : MR B PUSHILAL

Advocate for the Respondent : PP, ASSAM

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

18.03.2024

Heard Ms. M.G. Biswas, the learned counsel appearing for the petitioner as well as Mr. R.J. Baruah, the learned Addl. Public Prosecutor, Assam representing Respondent No.1. Also heard Mr. A. Ganguly, learned counsel appearing for the respondent Bank of India i.e. Respondent No.2.

2. This is an application under Section 482 of the CrPC praying for quashing the BIEO P.S. Case No.03/2020, under Sections 120(B)/420/406 and 409 of the Indian Penal Code.

3. The Deputy General Manager and Zonal Manager Amitabh Banerjee lodged an FIR before police on 17.03.2020. In the FIR, it is alleged as under:

The occurrence took place at Digboi/Dibrugarh Branch of Bank of India. The total amount involved in the transaction was ₹3.10 crore. Out of that, ₹2.01 crore was recovered by the Bank in the loan accounts and the total outstanding amount was reduced to ₹1.03 crore.

Mr. Deben Hazarika, the Senior Branch Manager, Dibrugarh Branch opened various loan accounts during the period 2018-19 at Dibrugarh Branch in violation of Bank Rules. To set right the irregularities, Mrs. Dona Das, the Branch Manager of Digboi Branch influenced Deben Hazarika.

It is alleged that said Deben Hazarika and Mrs. Dona Das along with Mihir Chetia, Mrs. Sangita Chetia and some other unknown persons have caused

financial loss to the Bank.

4. It may be stated that for the said incident, the Bank authorities initiated a departmental proceeding against the present petitioner Arjun Pandey who is also an employee of Bank of India. At the end of the inquiry, the present petitioner was only reprimanded.

5. The Bank of India has filed an affidavit supporting the case of the petitioner. The Bank stated that when the aforesaid incident took place in the Bank, the present petitioner Arjun Pandey was a probationer and it was his first posting in the Bank. The Bank claimed that Arjun Pandey was not deliberately and willfully involved in the aforesaid occurrence. The Bank of India stated that whatever punishment the Bank should have considered against Arjun Pandey, was already inflicted upon him.

6. I have considered the submissions made by the learned counsels of both sides.

7. The guidelines for consideration of a petition under Section 482 of the CrPC has been laid down by the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal*, AIR 1992 SC 604. Paragraph 102 of the judgment reads as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

8. Reverting to the case in hand, under the given circumstances, I find that there is no possibility of conviction of the petitioner in this case in future. So, allowing the criminal proceeding to continue against him before the trial court would be nothing but an abuse of the process of the court.

9. I am of the opinion that this is a fit case for exercising power under Section 482 of the CrPC, so far as the present petitioner Arjun Pandey is concerned. His criminal petition is allowed.

10. The BIEO P.S. Case No.03/2020 under Sections 120(B)/420/406 and 409 of the Indian Penal Code in respect of Arjun Pandey, is quashed and set aside.

The criminal petition is disposed of.

Send back the records.

JUDGE

Comparing Assistant