

HIGH COURT OF TRIPURA

A_G_A_R_T_A_L_A

CRL PETN No.35 of 2021

For Petitioner(s) : Mr. Sidharth Luthra, Sr. Advocate,
Mr. N. Das, Advocate.

For Respondent(s) : Mr. S.S. Dey, Advocate General,
Mr. Sumit Debnath, Addl. P.P.,
Ms. A. Chakraborty, Advocate,

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

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18.08.2021

Petitioner has prayed for quashing a complaint(Annexure-1) and an order dated 11.08.2021 passed by the Chief Judicial Magistrate, Khowai asking for expediting the investigation into the impugned complaint and for the report to be filed on 08.09.2021.

Learned counsel for the petitioner submitted that the complaint has been lodged on the basis of false allegations and is motivated by political *mala fides*. He stated that despite the best efforts by the petitioner no order of the Magistrate authorizing the police to register the said complaint as an FIR in terms of Section 155(2) of Criminal Procedure Code could be found. Irrespective of this, counsel submitted that the very foundation of the complaint is not believable. As per the complaint certain people arrested by the police for commission of offence under the Disaster Management Act which would be punishable under Section 188 of Indian

Penal Code, were to be produced before the Magistrate. However, on account of the unlawful resistance shown by the accused of this case, those persons who were arrested for offence under the Disaster Management Act could not be produced before the concerned Magistrate. Counsel pointed out that the offence under Section 188 of IPC is a bailable offence. There was no reason for the accused to be produced before the Magistrate. They were arrested on 08.08.2021 and brought before Teliamura police station. If that be so, particularly when the offence alleged against them was a bailable one, there was no reason for those accused to be brought before Khowai police station where the incident leading to the present complaint had allegedly occurred.

Learned Advocate General appearing for the State on advance copy submitted that the Magistrate had passed an order on 10.08.2021 for registering the complaint as an FIR. He further stated that the persons accused for commission of offence under the Disaster Management Act refused to offer bail and insisted on being produced before the Magistrate. These events are part of the record.

The issues require further consideration. Let there be notice, returnable on **2nd September, 2021**. In the meantime, the investigation may go on, however, final report shall not be filed without the leave of the Court. The Learned Advocate General to place on record a copy of the

order dated 10.08.2021 passed by the Magistrate with a copy to the counsel for the petitioner. On the returnable date, original case papers of both the criminal cases shall be produced before the Court for perusal.

(AKIL KURESHI), CJ

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