

MISC. CASE NO. 10 OF 2021
Ref. : Complaint Case No. 2 of 2020

19.11.2021

1. The complainant of Complaint Case No. 2 of 2020 filed an application today, praying for passing an appropriate order by annexing a copy of the Cril. Misc. Case No. 203/2021 filed before Ld. Chief Judicial Magistrate, Imphal West. Para nos. 10, 11, 12, 13, 14, 15 and 16 of the Cril. Misc. Case No. 203/2021 are reproduced hereunder:

10. That, meanwhile on 06.09.2021 the complainants through their junior counsel had applied for obtaining certified copy of the complaint dated 01.10.2020 filed by the accused persons to the Hon'ble chairperson Manipur Lokayukta. On 20.09.2021 the staff of the Lokayukta had delivered the said certified copy of the complaint which consists of affidavit dated 24.09.2020 sworn by Thiyam Nirosh Kr. Singh with verification and attestation before the Oath Commissioner, Manipur at Imphal West printed in the Non-Judicial Stamp papers (Rs. 10/- each) under no. 02AA965511 and 02AA945512 which support the complaint or part of the complaint.

In the said complaint as well as in the affidavit affirmed in support of the complaint along with verification and attestation, the signatures of the accused no. 2 were put as "Th Nirosh Kr. Singh" and the mobile No. 8974002604 was also written which is belonged to Shri Manihar Sarangthem (Accused no.1) as identified by Truecaller.

In the certified copy of the complaint dated 01.10.2020, it is also consisted an application/complaint of the accused no. 2 addressed to the State Chief Information Commissioner, Government of Manipur, dated 15.01.2019. In the said application/complaint under section 18 of the Right to Information Act 2005, the signature of Thiyam Nirosh Kr. Singh as "Th. Nirosh" was put in the last page (page no.3) of the said application/complaint and Mobile No. 9862206077 was also written which is belonged to Nirosh Thiyam as identified by Truecaller.

In the RTI application dated 17.11.2018 filed by Th. Nirosh Kr. Singh to The Information Officer, Manipur State Power Company Limited, the signature of Thiyam Nirosh Kr. Singh as "th. Nirosh Kr" was put in the last page (page no.2) of the application and mobile no. 9862206077 was also

written which is belonged to Nirosh Thiyam (accused no. 2) as identified by "Truecaller.

11. That, after comparison of the signatures appearing in the complaint, affidavit with verification and attestation i.e. "Th. Nirosh Kr. Singh" with the signatures "Th Nirosh" appearing in the RTI application, dated 15.01.2019 and Th. Nirosh Kr. Appearing in the RTI application, dated 17.11.2018 are found different or dissimilar even with the naked eye.

In the form of complaint (Form 1) filed by the complainant before the Lokayukta chairperson, Manipur Lokayukta, it is stated that to support the allegations, the complaint relies on the following facts and is also filing an affidavit; i) information under RTI Act, 2005, Ref no. 16/44/GM(PD)/2018-MSPCL/422-25 dated 28.01.2018. The signatures of the complainant (Th Nirosh Kr. Singh) appearing in the complaint with verification and affidavit which affirmed to support the complaint along with verification and attestation should be similar. However, the same are found different or dissimilar even with the naked eye.

12. That, on 13.09.2021 the accused no.2 had filed an Explanation in connection with the inquiry report submitted by Dy. S.P. Manipur Lokayukta dated 13.09.2021 before the Hon'ble Chairperson, Manipur Lokayukta in Complaint case no. 2 of 2020 and a similar copy of the same are also furnished to the Counsel for the respective respondents in the case before the Hon'ble Lokayukta, Manipur.

In the last page i.e., page no. 5 of the explanation filed by the accused no. 2 in the complaint case no. 2 of 2020, it is found that the accused no.2 put his signature as 'Th. Nirosh Kr. Singh' and when it is compared with the signatures appearing in the complaint, the affidavit along with verification and attestation, the signature is/are found different or dissimilar. However, the signatures 'Th. Nirosh Kr. Singh' appeared in the explanation as well as in the RTI application dated 15.01.2019 and 17.11.2018 i.e., 'Th Nirosh' and 'Th Nirosh Kr.' are same. The said signature of the accused no. 1 and 2 needs to be examined by an expert in order to find out the genuineness of the signatures.

13. That, on 15.09.2021 the Junior counsel/staff of the Senior Counsel had furnished 5(five) copies of the written comments in respect of respondent no. 2, 4, 7, 9 and 10 filed in complaint case no. 2 of 2020 by informing to Shri Th. Nirosh Kr. Singh (complainant in the complaint case no. 2 of 2020) on mobile no. 8974002604 which is found written in the complaint.

On the said day a person who is subsequently confirmed as Shri Manihar Sarangthem (accused no. 1) came to Keishamthong Elangbam Leikai, Imphal where the chamber of the Sr. Counsel is existed on a 2 (two) wheeler (Activa) grey in colour and on the way near Community hall, he received the said 5 (five) copies of the written comments of Respondent no. 2,4,7,9 and 10. After receiving the said 5 copies of the written comments, Shri Manihar Sarangthem (accused no.1) put his signature on the margin of the first page on the written comment as “Th. Nirosh Kr.” By purporting himself to be “Th Nirosh Kr. Singh” in presence of the staff/junior counsel and he left the place.

After comparison with the said signature which is written by Manihar Sarangthem (accused no.1) on the first page of the copy of the written comment with the signatures or signed in the complaint as well as the affidavit along with verification and attestation are found similar to each other or same handwriting of Manihar Sarangthem (accused no.1).

Further, it is submitted that the signature in the name of “Th. Nirosh” and “Th Nirosh Kr.” Appeared in the RTI application dated 15.01.2019 and 17.11.2018 and the signature of the accused no. 2 as Th. Nirosh Kr. Singh appeared in the Explanation of the accused no.2 in connection with the inquiry report submitted by Dy.S.P., Manipur Lokayukta is/are found similar.

14. That, Shri. Manihar Sarangthem (accused no.1) by purporting himself to be accused no.2 (Th. Nirosh Kr. Singh) and put the signature in the complaint as well as in the affidavit affirmed in support of the complaint along with verification and attestation in the name of Th. Nirosh Kr. Singh by impersonating or forging the above documents and used the same in the office or court of the Hon’ble Manipur Lokayukta as genuine

documents knowingly to be forged documents and also used the same for the purpose of cheating or harming the reputation of the employees of MSPCL and M/S Shyama Power (India) Pvt. Ltd. Including the present complainants with a false charge of offence made with an intention to injure with is punishable under Section 417, 419,463,464,465,468,469,471 and 34 IPC.

15. That, the complaint craves the leave of the Hon'ble Court to examine the above signatures appearing in the complaint as well as in the affidavit along with verification, attestation, RTI application dated 15.01.2019 and 17.11.2018 and the Explanation dated 13.09.2021 filed by the accused no. 2 in connection with the inquiry report submitted by Dy. S.P. before the Chairperson of Hon'ble Manipur Lokayukta in order to examine the genuineness of the documents and signatures thereon and also to take handwriting of the accused no. 1 & 2 before the Hon'ble Court to examine by an Expert after calling from the office of the Manipur Lokayukta, the information officer, Manipur State power company Ltd.

16. That, accused no. 1 and 2 had already assembled a party in furtherance of their common object and intention to file the above complaint against the Complainants and 10 (ten) other employee of MSPCL and M/s Shyama Power (India) Pvt. Ltd. in order to harass or harm the reputation of the employees of MSPCL and M/s Shyama Power (India) Pvt. Ltd. with false charge of offence made with an intention to injure.”

2. In Cril. Misc. Case No. 203/2021, 2021 before CJM, Imphal West, it is clearly mentioned in para no. 19 that the complainants i.e. Shri Thokchom Kaminimohon Singh and Shri Manoharmayum Budhachandra Sharma mentioned that the complainants had filed an application for making an inquiry u/s 340 of Cr.P.C. r/w section 195 of Cr.P.C. and section 46 of the Manipur Lokayukta Act, 2014 before the Hon'ble Manipur Lokayukta. However, the Hon'ble Manipur Lokayukta did not take up the matter/inquiry for the reasons not known to the complainants. The contents of the complaint in Cril. Misc. Case No. 203/2021 are similar with the one filed by the Respondent Nos. 3 and 4 in Complaint Case No. 2 of 2020 filed before us. The said application is pending before us; it has been

made known to all the concern that the application will be disposed of along with the order of the Lokayukta for deciding as to whether there exists a *prima facie* case for further proceeding i.e. closure of the proceeding or investigation by an agency or initiation of departmental proceeding or any other appropriate action against the concerned public servant by the competent authority. This Lokayukta has not yet taken its decision, inasmuch as hearing of the Complaint Case No. 2 of 2020 is going on.

3. The allegations and assertions of the complainants in Cril. Misc. Case No. 203/2021 were that the signatures of Shri Thiyam Nirosh Singh in Complaint Case No. 2 of 2020 filed before Manipur Lokayukta appearing in the Verification and Attestation before the Oath Commissioner (Judicial), Manipur, Imphal West on non-judicial stamp which was filed in support of the complaint in Complaint Case No. 2 of 2020 and the signatures of Shri Thiyam Nirosh Singh appearing in the copy of the RTI applications dated 15.01.2019 and 17.11.2018 accompanied with the complaint of Complaint Case No. 2 of 2020 are forged for the reasons mentioned in the complaint filed by the Complainants in Cril. Misc. Case No. 203/2021 before the Ld. CJM, Imphal West. Therefore, according to the Complainants of Cril. Misc. Case No. 203/2021 before the Ld. CJM, Imphal West, offences punishable under sections 200, 417, 419, 463, 464, 465, 468, 469, 471 and 34 IPC had been committed by Shri Thiyam Nirosh Singh. From this fact, it is crystal clear that offence punishable under Section 471 of the IPC alleged to have been committed by Shri Thiyam Nirosh Singh, Complainant of Complaint Case No. 2 of 2020 by forging the signatures of the complainant, Shri Thiyam Nirosh Singh in the documents i.e. complaint, affidavit, verification, attestation in support of the complaint filed before Manipur Lokayukta. In this context, one can easily understand what is the procedure prescribed under Section 195 of Cr.P.C. Section 195 of Cr.P.C. speaks that no Court shall take cognizance of any offence described in 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given

in evidence in a proceeding in any Court except on the complaint in writing of that Court or by such officer of the Court as that Court may authorised in writing in this behalf, or of some other Court to which that Court is subordinate. Therefore, even a prudent person will know that no court shall take the cognizance of any offence described in 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court except on the complaint in writing of that Court or by such officer of the Court. The offences said to have been committed is in respect of the documents filed before Manipur Lokayukta. The complaint contemplated under section 195 of the Cr.P.C. could be filed only after conducting an inquiry under section 340 of Cr.P.C. In other words, the complaint contemplated under section 195 of Cr.P.C. is preceded by inquiry provided under section 340 of the Cr.P.C.

4. The Apex Court in **N. Natarajan vs. B.K. Subba Rao (2003) 2 SCC 76** held in an un-equivocal term that in criminal law a complaint can be lodged by anyone who has become aware of a crime having been committed and thereby set the law into motion. In respect of the offences adverted to in Section 195 CrPC there is restriction that the same cannot be entertained unless a complaint is made by a court because the offence is stated to have been committed in relation to the proceedings in that court. Para 8 of the SCC in N. Natarajan's case (supra) reads as follows :

"8. In our view it is not necessary to pursue the approach of either of the parties. It is well settled that in criminal law a complaint can be lodged by anyone who has become aware of a crime having been committed and thereby set the law into motion. In respect of offences adverted to in Section 195 CrPC there is a restriction that the same cannot be entertained unless a complaint is made by a court because the offence is stated to have been committed in relation to the proceedings in that court. Section 340 CrPC is invoked to get over the bar imposed under Section 195 CrPC."

5. On conjoint reading of section 195 and 340 of Cr.P.C., it is crystal clear that there is certain restriction in respect of the offence adverted in section 195 of Cr.P.C. in relation of the documents filed in the proceeding of the Court. In such case, the Ld. CJM, Imphal West should not be oblivious of the provision contained in section 195 of Cr.P.C. for which special procedure is prescribed under section 340 of Cr.P.C. while conducting the purported inquiry under section 202 of Cr.P.C in the Cril. Misc. Case No. 203/2021. If the Ld. CJM, Imphal West by purportedly adopting the procedure under section 202 of Cr.P.C. continue to conduct the inquiry in the said Cril. Misc. Case No. 203/2021 by directing for an investigation by a police officer, shall the Manipur Lokayukta produce the record before the Ld. CJM, Imphal West. Under what provision of law, part of the record of the proceeding before Manipur Lokayukta is going to be requisitioned by the Ld. CJM, Imphal West.

6. It is made clear that the ratio laid down by Apex Court cannot be diluted on the mere plea that factual aspects are different. The proceeding of Complaint Case No. 2 of 2020 should not be interfered with by adopting different dilatory tactics and also other court should not interfere with the proceeding of Complaint Case No. 2 of 2020. Interference by the Court will defeat the purpose and object for establishing Manipur Lokayukta and the purpose of establishing Manipur Lokayukta is to inquire into allegations of corruption against certain public functionaries and for matters connected therewith or incidental thereto.

7. The Officer-in-Charge of Imphal Police Station, Imphal West District, who issued a notice under section 160 of Cr.P.C. to the Complainant, Shri Thiyam Nirosh Singh as well as to Shri Manihar Sarangthem @ S. Manihar Singh, Special Power of Attorney Holder of the complainant, is directed to bring this order to the notice of the Ld. Chief Judicial Magistrate, Imphal West. The OC, Imphal Police Station, Imphal West District should not take up any action which would amount to interfering with the proceeding of preliminary inquiry on the complaint filed by the complainant i.e. Shri Thiyam Nirosh Singh in Complaint Case No. 2 of 2020, failing which consequence under the law will follow. We further observe that the

complainant, Shri Thiyam Nirosh of Complaint Case No. 2 of 2020 and Shri S. Manihar Singh, Special Power of Attorney Holder of the complainant should not be harassed by the police for the matter pending before Manipur Lokayukta.

7. Deputy Registrar, Manipur Lokayukta is directed to furnish a copy of this order, today itself to :

- i) The Superintendent of Police, Imphal West District;
- ii) The Officer-in-Charge, Imphal Police Station, Imphal West District;
- iii) Shri Shri Thiyam Nirosh, Complainant; and
- iv) Shri S. Manihar Singh, Special Power of Attorney Holder of the complainant.

Sd/-
MEMBER

Sd/-
CHAIRPERSON