

THE HIGH COURT OF SIKKIM: GANGTOK
(Criminal Jurisdiction)

SINGLE BENCH: HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

Crl. M.C. No. 01 of 2022

Dek Bahadur Katwal,
Son of late P.S. Katwal,
Resident of Lingi, Sokpay
South Sikkim,
Pin No. 737134.

Present Address: 2nd mile
Siliguri, West Bengal.

..... **Petitioner**

Versus

1. State of Sikkim
Through Chief Secretary,
Government of Sikkim,
Gangtok, East Sikkim,
2. Sikkim Industrial Development &
Investment Corporation LTD.
Through the Managing Director,
Bhanu Path, Gangtok,
East Sikkim

..... **Respondents**

**Petition under Section 482 of the Code of Criminal
Procedure, 1973.**

*(For quashing of FIR No.47/2021 dated 12.03.2021 under
Section 417/418/420/406 of Indian Penal Code, 1860 registered
at Sadar Thana, Gangtok, East Sikkim).*

Appearance:

Mr. Yam Kumar Subba and Ms. Kingzum Sherpa,
Advocates for the Petitioner.

Mr. Yadev Sharma, Additional Public Prosecutor for the
Respondents.

Date of hearing : 26.05.2022

O R D E R (ORAL)

Bhaskar Raj Pradhan, J.

1. A petition under section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) has been filed by the petitioner seeking a prayer to quash the First Information Report (FIR) bearing No.47/2021 dated 12.03.2021. The FIR has been lodged by the Managing Director, Sikkim Industrial Development and Investment Corporation Ltd. (SIDICO) alleging that the petitioner had submitted an application dated 12.11.2010 for a loan of Rs.1,50,000/- for the purpose of starting a chamber of advocate under the Chief Minister's Self Employment Scheme. It further states that the application was processed and the amount was sanctioned in his favour and ultimately disbursed in two instalments of Rs.1 lakh on 25.11.2010 and Rs.50,000/- on 25.12.2010. It is alleged that the acknowledgment of liability dated 29.12.2010 was also signed by the petitioner. It is stated that while disbursing the loan to the petitioner SIDICO had also handed over a repayment schedule (EMI) to him apprising him of the monthly instalment of Rs.2925/-, number of instalments i.e. 60 months and the due dates for repayment of the loan amount i.e. from November, 2012 to October, 2017. It is alleged that despite the fact that the petitioner was well informed and had

knowledge that he was required to make monthly instalments of the loan, the tenure and the due date from when he had to make repayment to the SIDICO he failed to make the payments and thereby he has cheated the SIDICO of the said amount. It is also stated in the FIR that the outstanding balance in the said loan account as on 12.03.2020 is Rs.2,15,342/-. Based on this information, it transpires Sadar Police Station has lodged the FIR and taken it up for investigation.

2. Mr. Yam Kumar Subba, learned counsel appearing for the petitioner on specific instructions from the petitioner submits that he is willing to make the payment but however, he requires some time to do so. It is submitted that he shall make the payment along with interest as calculated by SIDICO within a period of five months from today.

3. Mr. Yadev Sharma, learned Additional Public Prosecutor appearing for the respondents submits that the State is agreeable to give him further five months period to repay the required amount along with interest thereon if he assures repayment.

4. In view of the submissions made by the learned counsel for the parties it is deemed appropriate to permit the petitioner to make the payment of the principal amount

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along with interest thereon which is calculated as Rs.2,35,500/- by the respondents as on date. The payment shall be made within a period of five months from today. The petitioner shall also be liable to pay interest at the rate of 6% per annum on the principal amount calculated from today till the date of actual payment. Failure to comply with this order will automatically revive the FIR. In view of the agreement entered between the parties before this court the proceedings in FIR No. 47/2021 dated 12.03.2021 registered in the Sadar police station stands quashed.

(Bhaskar Raj Pradhan)
Judge

Approved for reporting : Yes
Internet : Yes

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