

**IN THE HIGH COURT OF MANIPUR  
AT IMPHAL**

**CRIL.PETN. No. 26 of 2022**

With

**MC(Cril.P.) No. 27 of 2022**

***... Petitioner/Applicant***

- Versus -

1. State of Manipur, represented by the Principal Secretary (Home), Government of Manipur, Old Secretariat Building, Babupara, Imphal West District, Manipur- 795001.
2. The Officer-in-Charge, Imphal Police Station, Babupara, Imphal West District, Manipur- 795001.

***... Respondents***

**BEFORE**

**HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the petitioner	:	Mr. H. Kenajit & Mr. Albert Keisham, Advocates
For the respondent	:	Mr. H. Samarjit, P.P.
<b>Date of Hearing</b>	:	<b>02.05.2023</b>
<b>Date of Judgment &amp; Order</b>	:	<b>05.06.2023</b>

## **JUDGMENT & ORDER**

**[1]** Heard Mr. H. Kenajit, learned counsel for the petitioner, assisted by Mr. Albert Keisham, Advocate; and Mr. H. Samarjit, learned PP for the State.

**[2]** The petitioner herein approached this Court by an application under Section 482 Cr.P.C. for quashing F.I.R. No. 208 (04) 2012 IPS u/S 17/20 Unlawful Activities (Prevention) Act. It is stated that the petitioner is presently running a business of mobile food truck and is a family man taking care of his old aged parents, wife and two minor sons, and he is the only bread earner of the family and his wife is helping him in the food truck business. The petitioner was arrested on 21.04.2012 in connection with F.I.R No. 208 (04) 2012 IPS u/S 17/20 UA(P) Act and the learned Chief Judicial Magistrate, Imphal West, released him on bail on 30.04.2012. It is also stated that respondent No. 3 arbitrarily arrested the petitioner without any material only on the ground that he was carrying Rs. 90,000/- (Rupees Ninety Thousand) with him. It is further stated that there is no prima facie case against the petitioner and there is no progress in the investigation since his arrest 10 years ago. It is stated that the petitioner has been picked up from his residence on every Independence Day and Republic Day i.e. 15<sup>th</sup> August and 26<sup>th</sup> January every year by the police and took photographs in full public view and hence, his prestige and reputation has been tarnished in the society. In the F.I.R., it is alleged that the petitioner was a member of a banned militant outfit PLA/RPF. Since there is no progress in the investigation for more than 10 years, it is prayed that name of the petitioner may be quashed or deleted from the FIR or direct the respondents to file charge sheet within a time frame. The relevant portion of the prayer is reproduced below :-

*"iii) to quash/delete the name of the petitioner from the impugned FIR No. 208(04) 2012 IPS u/s 17/20 UA(P) Act (Annexure Q/2);*

*or*

*to direct the respondents to file charge sheet against the petitioner within a time frame;"*

**[3]** The petitioner also filed an application being MC(Cril.Petn.) No. 27 of 2022 inter alia praying that during the pendency of Cril.Petn. No. 26 of 2022, the State respondents may be directed not to pick up the petitioner and wrongfully detain him in custody in the guise of F.I.R No. 208 (04) 2012 IPS u/S 17/20 UA(P) Act on the ground that such routine detention of the petitioner on the eve of 26<sup>th</sup> January and 15<sup>th</sup> August every year and also during the visit of high dignitaries, violates his right of live with dignity and his right of privacy.

**[4]** The State respondents submits that the petitioner was arrested for being a member of the illegal unlawful band outfit PLA/RPF and from his possession, Rs. 90,000/- (Rupees Ninety Thousand) was recovered in cash from his possession. He used to collect money from various departments and businessman and transferred the same to the organization as party fund after retaining his percentage. As the State of Manipur is an insurgency prone State, there has to be strict vigilance and surveillance over the movement of cadres or members of outlawed organizations, especially on the occasions of Independence Day and Republic Day. Accordingly, the petitioner being a bail-out member of PLA/RPF, the police makes some queries about his life after releasing him on bail and states that he was never arrested or detained. It is also stated that there are sufficient materials against the petitioner in the FIR. It is stated that the petitioner ought to approach the concerned Special Court under the provisions of Cr.P.C. for calling status of investigation and expediting the same, instead of

approaching this Court for quashing FIR. It is also clarified that the investigation took a long time as associates of the petitioner are yet to be arrested and necessary steps will be taken up to complete the investigation as soon as possible.

**[5]** The petitioner filed rejoinder affidavit to the counter affidavit of the State respondents and stated that he was implicated in the FIR with mere suspicion without any evidentiary materials and on the basis of concocted story. On the other hand, the investigation could not be completed for more than 10 years. The petitioner has been picked up repeatedly on several occasions such as the Independence Day, Republic Day and during the visit of high dignitaries and detained the whole night in the custody of the police. Inability to complete the investigation for more than 10 years shows that there is no evidence against the petitioner and it is a fit case for quashing the FIR.

**[6]** Mr. H. Kenajit, learned counsel for the petitioner, submits that there is no progress in the investigation at all for a period of more than 10 years and during the pendency, the petitioner who leads a normal life by doing a food stall and maintaining a family has been harassing on occasion of Republic & Independence Day and visit of high dignitaries and he has been picked up from his residence by the police and this lowers his dignity in the society. After the filing of MC(Cril.Petn.) No. 27 of 2022 and during the pendency of the present petition, the police has stopped picking up from his residence. The plea of calling the petitioner to enquire his well being, cannot be sustained, as he was usually picked up by police from his residence and took photographs in full public view. It is stated that he was treated as an accused involved in a heinous crime on the basis of an FIR registered a decade ago with no progress in the investigation. It is emphasizing that such treatment violates the petitioner's right

to privacy and dignity as enshrined under Article 21 of the Constitution. Since the FIR does not disclose any material for the involvement of the petitioner and also inability to complete the investigation for more than 10 years, Mr. H. Kenajit, learned counsel for the petitioner has submitted that this is a perfect case for quashing the FIR. If this Court is not willing to quash the FIR at this stage, Mr. H. Kenajit, learned counsel, submits that a definite time frame may be given to the investigating agency to complete the investigation. He draws the attention of this Court to an order dated 17.10.2022 passed by this Court in CRIL.PETN. No. 31 of 2021 where FIR registered way back in the year 2009 FIR relating to offence of kidnapping, murder and Unlawful Activities (Prevention) Act, was handed over to the CBI directing to complete the investigation and file a final report/charge-sheet before the competent Court within a period of 6(six) months from the date of receipt of the order. It is submitted that in the present case also, direction for completing the investigation within a period of 6(six) months may be given to the investigating agency. Mr. H. Kenajit, learned counsel, also submits that as prayed in MC(Cril.Petn.) No. 27 of 2022, the State respondents may be directed not to pick up the petitioner and wrongfully detain in their custody in connection with F.I.R No. 208 (04) 2012 IPS u/S 17/20 UA(P) Act on the occasions of Independence Day, Republic Day or visit of high dignitaries to the State.

**[7]** Mr. H. Samarjit, learned PP for the State submits that an investigation involving offences under UA(P) Act cannot be quashed on mere technicalities and the involvement of the petitioner has to be established after due investigation. He further submits that as clarified in the counter affidavit, the investigation could not be

completed as other associates of the petitioner could not be arrested and the State endeavor to complete the investigation as soon as possible.

[8] Learned PP has objected to the prayer made in the misc. application being MC(Cril.Petn.) No. 27 of 2022 to restrain the police from picking up the petitioner on account of every Republic Day, Independence Day and visit of high dignitaries. It is clarified that the petitioner was not arrested or picked up as alleged in the application. Since Manipur is an insurgent prone State and the bail-out surrendered militants are called on to the police station to enquire about their well-being and for counselling purpose. Learned PP also draws attention of this Court to the order dated 17.10.2022 in Cril.Petn. No. 31 of 2021 where this Court was not inclined to quash the FIR on mere technicalities and directed to complete the investigation within 6(six) months. He also prays that the present petition and the application may be rejected being devoid of any merit.

[9] It will be fruitful to discuss case laws on the right to live with dignity. In the celebrated case of **Kharak Singh v. State of UP reported as MANU/SC/0085/1962: AIR 1963 SC 1295**, a five Judge Bench of the Hon'ble Supreme Court considered the validity of domiciliary visits by police under Regulation 236 of the UP Police Regulations which authorised visit during night time to the residence of the person under surveillance (bad character and history sheeter in police record). It was held that such a provision violated the personal liberty to live with dignity guaranteed under Article 21 of the Constitution. Para 38 is reproduced for a clear understanding.

"38. .... If physical restraints on a person's movements affect his personal liberty, physical encroachments on his private life would affect it in a larger degree. Indeed, nothing is more deleterious to a man's physical happiness

and health than a calculated interference with his privacy. We would, therefore, define the right of personal liberty in Art. 21 as a right of an individual to be free from restrictions or encroachments on his person, whether those restrictions or encroachments are directly imposed or indirectly brought about by calculated measures. If so understood, all the acts of surveillance under Regulation 236 infringe the fundamental right of the petitioner under Art. 21 of the Constitution.”

**[10]** In the recent case of **KS Puttuswamy v. Union of India: (2017) 10 SCC 1**, a 9 Judge Constitution Bench of the Hon’ble Supreme Court held that the right to privacy and to live with dignity is a facet of personal liberty as enshrined in Article 21 of the Constitution. In the case of **Danial Latifi v. Union of India: (2001) 7 SCC 740**, it was observed that ‘right to live with dignity’ is included in ‘right to life and personal liberty’.

**[11]** From the perusal of the record, it is seen that the investigation of the FIR lodged in the year 2012 could not be completed till date and it seems that there is no much progress in the investigation. The only explanation given by the State authorities is that associates of the present petitioner could not be arrested and hence, the matter could not be completed. On the other hand, this Court is conscious of the fact that the offences under UA(P) Act are serious one relating to the security of the nation and FIR cannot be quashed on mere technicalities without going to the complete merit of the case. The main prayer in the cril. petition is for quashing of the F.I.R No. 208 (04) 2012 IPS u/S 17/20 UA(P) Act or to direct the respondents to file charge-sheet within a time frame. This Court is of the view that it will be appropriate and suffice if this Court directs the respondents to complete the investigation within a period of 6(six) months from the date of receipt of this order and submit a report under Section 173 Cr.P.C. to the concerned Court. It is also clarified that if the presence of the petitioner is required by the Investigating Agency in connection with the FIR or for any reason,

a notice in the nature of Section 41-A Cr.P.C. be issued to the petitioner for his appearance before the Investigating Authority on a particular date. In case, the petitioner fails to appear before the Investigating Officer, necessary steps may be taken up by the police for effecting his appearance. This direction is issued keeping in mind the settled principles of law of maintaining the intricate balance between the fundamental right to live with dignity of a citizen vis-à-vis the affairs of security of the State. It may be pertinent to observe here that Court ought not to pass any sort of order which may restrict the power of police in maintaining the law and order of the State, except for protecting the basic right of a citizen.

**[12]** In terms of the above observations and directions, CRIL.PETN. No. 26 of 2022 and MC(Cril.Petn.) No. 27 of 2022 are disposed of. No costs.

**[13]** Send a copy of this order to the O.C., Imphal P.S. for information and necessary compliance. A copy of this order may also be sent to the Director General of Police for issuing general directions (SoP) in terms of observations and directions made in para 11 to deal with bail-out persons with empathy.

**JUDGE**

FR/NFR

*Indrajeet*