

**IN THE COURT OF THE SESSIONS JUDGE: SONITPUR  
AT TEZPUR**

**PRESENT :** Smt. M.R. Sharma  
Additional Sessions Judge  
Sonitpur, Tezpur

**CRIMINAL REVISION NO. 37 (S-3) OF 2012**

[Revision under Section 397/399 CrPC against the Order dated 25-06-2012 passed by Sri S.K. Dhar, learned Chief Judicial Magistrate, Sonitpur, Tezpur in connection with Tezpur P.s. Case No. 225 of 2012 (GR Case No. 404 of 2012)]

Prayag Infotech High Rise Ltd.

Being represented by –

Safikul Islam  
Branch Manager  
Prayag Infotech High Rise Ltd.  
Tezpur Branch

.... **Petitioner**

**-VERSUS-**

State of Assam

..... **Opp. Party**

**A P P E A R A N C E**

For the petitioner : Sri S. Borthakur, Advocate

For the Opposite Party : Sri S. Sedai,  
Addl. Public Prosecutor

Date of Argument : **19-10-2012**

**Date of Judgment : 19-10-2012**

**J U D G M E N T**

This Revision Petition has been filed Under Section 397 / 399, Cr.P.C. against the order dated

25-06-2012 passed by Sri S.K. Dhar, learned Chief Judicial Magistrate, Sonitpur, Tezpur in Tezpur P.S. Case No. 225 of 2012 corresponding to GR Case No. 404 of 2012, by the petitioner Safikul Islam, who is the Branch Manager of Prayag Infotech High Rise Ltd., which is a Company doing money laundering business. The petitioner Md. Safikul Islam being the Branch Manager has prayed for interference with the order passed by the learned Chief Judicial Magistrate for granting custody of seized properties to the petitioner.

**2.** The revision was admitted and the lower Court Records pertaining to GR Case No. 404 of 2012 has also been received. The said GR case has been registered out of Tezpur P.S. Case No. 225 of 2012 u/s 120-B / 420 / 406 of IPC read with Sections 4 / 5 / 6 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978.

**3.** I have heard the learned counsel for the revision petitioner and also the learned Additional Public Prosecutor. I have also gone through the entire materials son record of the case.

**4.** The case was registered on the basis of an ejahar by A.S.I. Lalit Kakaty of Tezpur Police Station alleging that the petitioner-Company was doing money laundering business without any prior approval of concerned authority and had misappropriated large amount of funds, collected from general people.. On the basis of the said ejahar, Sections 120-B / 420 / 406 of IPC read with Sections 4 / 5 / 6 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978 was registered and during investigation, police seized large number of documents and computer, printer, monitor etc. From the Company Office. This revision petitioner filed application before the learned Chief Judicial Magistrate praying for zimma of the said documents seized

by the police except the computer which was sent to Forensic Science Laboratory and the learned Chief Judicial Magistrate vide order dated 25-06-2012 rejected the prayer for zimma. Thereafter, this revision petition was filed on the ground that the learned Chief Judicial Magistrate, Sonitpur, Tezpur did not apply his judicial mind and the impugned order was bad in law and liable to be set aside. It is also stated that the learned Chief Judicial Magistrate rejecting the application for zimma u/s 451 Cr.P.C. had caused great injustice as the said documents are necessary for running business of the petitioner. The Citation reported in AIR 2003 SC 638 on to have been considered by the learned Chief Judicial Magistrate. The revision petitioner has also stated that he undertakes to furnish the attested copy of the documents if the original are given in zimma and will be also produced them as and when required. The urgency of giving zimma arises as the seized documents may be subjected to natural decay.

**5.** Section 451 of the Criminal Procedure Code refers to orders on custody and disposal of property pending investigation / trial. The section defines '*property*' of any kind which may include documents and the said property appears to have been used for commission of an offence. But the section also states that order for custody of such property pending investigation or trial must be subjected to speedy and natural decay. The materials on record show that two accused persons, namely, Ratan Patowari and Krishna Nath were arrested in connection with this case and they are on bail order passed by the Hon'ble Gauhati High Court. Both the accused persons were employees of the said financial institution Prayag Infotech High Rise Ltd. And the documents seized included computer, monitor, key board, two CPUs, two printers, Prayag Group money collection receipts, numbers of letters and communications between

revision petitioner-Company and reserve Bank of India, money receipts deposits, renewal registers, FD register, cash transfer register, salary register, photo copy of agreement and many others.

**6.** The order of the learned Chief Judicial Magistrate shows that the investigation being at very preliminary stage, the prayer for zimma of the documents cannot be allowed. Further more, order dated 25-06-2012 against which this revision petition has been filed, the learned Chief Judicial Magistrate held that the prosecution case depends upon the documents seized and zimma of the said documents may damage the merits of the case. The case laws referred to by the learned counsel for the revision petitioner are with regard to zimma of currency notes, vehicles and valuable articles. The record also does not show whether the FSL Report has been received or the computer sent for examination and the report of the FSL is linked with the documents seized as per the record. This case is based on the documents seized which are prayed to be given to the zimma of the revision petitioner. Hence, I find that the learned Chief Judicial Magistrate was quite justified in rejecting the prayer of zimma of the documents to the revision petitioner as the documents cannot be a material of natural decay and more so, when the accused are already on bail, and there may be tampering of evidence.

**7.** Under the circumstances, I find no irregularity or illegality committed in the order of the learned Chief Judicial Magistrate in rejecting the prayer for zimma. The order of the learned Chief Judicial Magistrate, Sonitpur, Tezpur dated 25-06-29012 does not suffer from any illegality and hence does not require any interference and so, is also not liable to be set aside.

**8.** Accordingly, this Criminal Revision is dismissed on contest.

With the above direction this Criminal Revision is disposed of accordingly.

Return the record of the lower Court along with a copy of this Judgment.

This judgment is given under my hand and the seal of this Court on this 19th day of October, 2012.

**(M.R. Sharma)**  
**Additional Sessions Judge**  
**Sonitpur : Tezpur**

Dictated and corrected by me  
And every page bears my signature.

**(M.R. Sharma)**  
**Additional Sessions Judge**  
**Sonitpur : Tezpur**

Transcribed and typed on dictation by me –

**(I. Goswami )**  
Stenographer