

**Sri Syamalendu Majumder vs The State Of Tripura on 29 September,
2026**

TRHC010008242025

2026:THC:1355

HIGH COURT OF TRIPURA
AGARTALA
Crl.P.No.25 of 2025

Sri Syamalendu Majumder,
S/o- Lt. Jatindra Chandra Majumder,
R/o- Thakur Palli Road, Krishnanagar,
Agartala, P.S.-West Agartala,
Dist.- West Tripura, Tripura.

.....Accused- Petitioner(s)

Versus

1. The State of Tripura,
Represented by: the Principal Secretary to the
Government of Tripura, Dept. of Home,
Having his office at New Secretariat Complex,
Gorkhabasti, P.O.-Kunjaban, P.S.-NCC, Sub-Division-Sadar,
District-West Tripura, Pin-799010.

2. Sri Sushil Chandra Saha
S/o- Lt. Anukul Chandra Saha,
Holding the post of: Officer on special duty,
Tripura Medical College & Dr. BRAM Teaching Hospital, Agartala,
P.S.-Amtali, Dist: West Tripura, Tripura.

.....Respondent(s)

For Petitioner(s) : Mr. Pijush Kanti Biswas, Sr. Adv, Mr. Rishiraj Nath, Adv.

For Respondent(s) : Mr. Raju Datta, P.P., Mr. Debalay Bhattacharya. Sr. Adv, Mr. Samar Das, Adv.

Date of Hearing : 17.09.2026

Date of delivery of

Whether fit for
Reporting : YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

This petition under [Section 482](#) of Cr.P.C.

corresponding to Section 528 of BNSS is filed for quashing of FIR vide West Agartala P.S. case No.041 of 2025 registered under [Sections 167/193/384/420](#) and [409](#) of IPC. Page 2 of 14

02. Heard Learned Senior Counsel, Mr. P. K. Biswas assisted by Learned Counsel, Mr. R. Nath on behalf of the petitioner-accused and also heard Learned Senior Counsel, Mr. D. Bhattacharya assisted by Learned Counsel, Mr. S. Das on behalf of the respondent No.2 and further heard Learned P.P., Mr. R. Datta representing the prosecution.

03. Taking part in the hearing, Learned Senior Counsel first of all drawn the attention of the Court that on the basis of an FIR laid by the respondent No.2 being OSD to TMC & Dr. BRAM Teaching Hospital this case was registered against the present petitioner-accused under [Sections 167/193/384/420](#) and [409](#) of IPC. Referring the aforesaid provisions of law, Learned Senior Counsel submitted that none of the aforesaid provisions of [IPC](#) are attracted for the alleged commission of offence because the petitioner-accused being the Chartered Accountant Firm conducted audit of the respondent-TMC for certain period. Learned Senior Counsel first of all drawn the attention of the Court referring Annexure-2 i.e. the memo dated 06.07.2022 issue by the Chief Executive Officer in favour of the present petitioner-accused and by the said memorandum the TMC Authority requested the petitioner firm to submit return in Form No.10BB under the [Income Tax Act](#) 1961 upto the financial year 2022-2023 subject to some charges and also by the said memorandum the respondent-TMC renewed the appointment of the Chartered Accountant firm of the petitioner. Page 3 of 14 Thereafter, the TMC Authority i.e. the respondent No.2 by another communication dated 28.11.2024 requested the petitioner firm for e-filing of audit report in Form No.10B which was erroneously filed in 10BB in respect of the financial year 2022-2023 assessment year 2023-2024 and by the said communication the respondent No.2 requested to file audit report in Form 10B. After that on 28.11.2024 (Annexure-4) the petitioner-accused had written one letter to the respondent-TMC to find out any other auditor informing that they filed the report in Form 10BB according to the memorandum dated 07.07.2022. Thereafter, on 03.12.2024 the respondent No.2 had sent another communication to the petitioner for submission of revised return in Form 10B of the Income Tax Act in respect of the financial year 2022-2023 and assessment year 2023-2024 and it was further intimated that the bill implicated be submitted for payment.

He further referred another communication dated 02.12.2024 (Annexure-6) by which it was intimated to submit revised return form in 10BB in respect of financial year 2022- 2023 and assessment year 2023-2024. Thereafter, on 28.04.2025 the petitioner-accused sworn an affidavit narrating that the CBDT Circular dated 07.10.2024 extending the due date for submission of the

audit report came to their notice in the first week of December, 2024 and soon after they obtained the Audit Report in Form 10B on 07.12.2024 and have Page 4 of 14 electronically filed the same on 17.12.2024, resulting a delay of 37 days in electronically filing of Form 10B from the extended due date of 10.11.2024, but surprisingly the respondent No.2 with an ulterior motive laid the FIR. Now referring all the aforesaid annexures and the contents of the FIR, Learned Senior Counsel drawn the attention of the Court that no offence has been committed by the petitioner firm and none of the Sections incorporated in the case attracts against the present petitioner and by the act of the petitioner-accused, no criminal offence is made out rather the respondent No.2 with an ulterior motive to harass the petitioner has filed this FIR which needs to be quashed.

Learned Senior Counsel, Mr. D. Bhattacharya appearing on behalf of the respondent No.2 submitted that the present petitioner-accused failed to discharge his duties as an appointed auditor to file the return within time causing severe amount of financial losses to the respondent-TMC, so, there was no illegality in the FIR and in support of his contention Learned Senior Counsel for the petitioner relied upon the judgment of [State of Haryana and Ors. vs. Ch. Bhajan Lal and Ors](#) reported in (1992) AIR 604 and submitted that the observation of the Hon'ble Supreme Court in para No.8.1 would not support of the case of the present petitioner and the action of the petitioner-accused cannot be said to be an action which do not attracts criminal liability and he further submitted another judgment of Page 5 of 14 the Hon'ble Supreme Court in *Kathyayini vs. Sidharth P.S. Reddy & Ors.* reported in (2025) LiveLaw (SC) 712 wherein in para No.23 Hon'ble the Apex Court submitted that mere pendency of civil proceedings on the same subject matter involving the same parties is no justification to quash the criminal proceedings if a prima facie case exists against the accused-persons. Referring the same, he submitted that since the present petitioner-accused charged money for the proposed purpose and the error was committed by him, so, he cannot escape from criminal liability and urged for dismissal of the petition.

Learned P.P., on the other hand appearing on behalf of the State-respondent submitted to pass appropriate order in- accordance-with law.

04. Heard the parties at length. For the sake of convenience let us reproduce herein below the contents of the FIR which are as follows:

To The Officer In charge, West Agartala Police Station, Agartala.

Sub: FIR against intentional framing of incorrect document, deliberate omission to cause injury, criminal breach of trust, cheating and commission of extortion in furtherance of malicious design.

Sir, I Sushil Chandra Saha. S/o Late Anukul Chandra Saha holding the post of Officer on Special Duty, Society for Tripura Medical College & Dr. BRAM Teaching Hospital, Hapania, Agartala Mobile No- 9366638489 a citizen of India do hereby lodge this FIR against the below noted person to the effect that one Syamalendu Majumdar, a practicing Page 6 of 14 Chartered Accountant, having his own CA Firm in the name of SA Majumdar & Associates, Chartered Accountants located at Thakur Pally Road, Krishna Nagar, Agartala was entrusted by a memo to conduct financial audit of the Society for Tripura Medical College & Dr. BRAM Teaching Hospital and to file tax return to the Income Tax Department. As a part of duty bestowed upon the CA, he was required to conduct financial audit and to file return in Form

No 10B read with [Section 10\(23C\)](#) of the Income Tax Act, 1961 for the financial year 2022-23 corresponding assessment year 2023-

24. Instead of submitting return in Form 10B, Syamalendu Majumdar furnished return in Form 10 BB which rendered the income tax authority to slap a demand of Rs. 10.08 crore for the Assessment Year 2023-24 corresponding to the financial year 2022-2023.

Since the grave professional error was committed by the CA Syamalendu Majumdar, he was asked to rectify his errors and to furnish corrected return to the Income Tax Department within the stipulated time. But taking the scope of tax ramifications and financial consequences of the Society, CA Syamalendu Majumdar started extorting the Society by way of raising demand Rs. 1 (one) lakh to do the correction work. The extortion money was given to him under pressure. The detail of the case is depicted below:-

Vide Memo No F. 2(Acctts-17)/SFTMC/2009- 2018/1555 dated 24/06/2021 he was engaged to conduct Financial Audit for the Financial Year 2020-21 & 2021-22 read with Assessment Year 2021-22 & 2022-23 with a remuneration of Rs. 69,000/- including GST Rs. 10,525.40 and he was requested to file return in Form No 10BB read [Section 10\(23C\)](#) of the Income Tax Act 1961. After expiry of his engagement, he was re-engaged vide Memo No. F. 2(Acctts-17)/SFTMC/2009-2018 dated 06/07/2022 on the similar terms & conditions for the Financial Year 2022-23 read with Assessment Year 2023-24. Copies of both the memos are enclosed.

The Income Tax Department vide Notification No 7/2023 dated 01st February-2023 revised the form for submitting the return in prescribed form (Copy enclosed). The applicability of Form 10B & 10BB was envisaged under clause (iv), (v), (vi), (vi-a) of Clause 23(C) of [Section 10 section 11 & 12](#) of the Income Tax Act 1961. The return was required to be submitted in Form 10B because income of the Society exceeded 5 (Five) Crore for the relevant Financial Year and Assessment Year. Sri Syamalendu Majumdar is the Senior Chartered Accountant and he was very much aware of the provisions of the [Income Tax Act](#) and it was his Professional Obligation to know the [Provisions of the Income Tax Act](#) as amended time to time by notification or otherwise but he maliciously submitted return in inappropriate form on 07/10/2023 to cause Page 7 of 14 injury to Society and the same was electronically filled on 10/10/2023 for which the Income Tax Department completed Assessment of the Society raising Demand Rs.10.08 Crore for the Assessment Year 2023- 24 read with the Financial Year 2022-23.

For the Assessors who submitted return in inappropriate form, the Income Tax Department allowed an opportunity extending time up to 10th November 2024 to file revised Return in Appropriate Form vide order No F.No. 173/118/2024-ITA-1 dated 07th October-2024 (Copy enclosed). Having noticed the demand raised by the Income Tax Department, Sri S.A. Majumdar was contacted immediately and he was requested to file revised return within extended time and date in appropriate form No 10B. Sri S.A. Majumdar, Chartered Accountant did the misdeed and it was his obligation to regularize his misdeed by filling revised return in Form 10B but he started to extort money from the Society raising unethical, illegal and unwanted demand to pay him another amount of Rs. 1 Lakh for submitting revised return and he kept pressing and ultimately last date for submitting revised return was expired. The Society was left out with no option but to pay him the extorted money Rs. 1 Lakh for filling revised return. He submitted revised return after expiry of 37 days.

The Society has to submit petition to the Commissioner of Income Tax (Exemption), 10B Middleton Row, Kolkata-700071 for condonation of delay for 37 days and the petition shall have to contain an affidavit from CA Syamalendu Majumdar, Chartered Accountant. The extorted amount of Rs. 1 lakh has been paid to him and he has been requested to file an affidavit regarding delay in submission of revised return. During last three months, CA Syamalendu Majumdar has been persuaded, requested for swearing affidavit and he stated that on receipt of Rs. 1 lakh he would swear the affidavit. His payment was made and now he straight way denied to swear the affidavit. Sri Syamalendu Majumdar, Chartered Accountant, first he filled incorrect return knowing fully well about the change of Law and there after he did not file revised return and unethically, illegally and unwontedly pressed for paying him Rs 1 Lakh. Though the Society has paid him the demanded money, now he refused to swear affidavit causing harm financially to the Society and by doing so he committed criminal offences for which he has to be booked in accordance with law. The cause of action started when he filed return in respect of the Assessment Year 2023- 24 on 07/10/2023.

Therefore, I would request you kindly to take appropriate legal action against the accused under the relevant provisions of law for the sake of justice.

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In the FIR it has been alleged that the present petitioner-accused inspite of receipt of payment filed incorrect return and he failed to file revised return unethically, illegally and prayed for further payment of Rs.1,00,000/- and he refused to swear affidavit causing severe financial loss to the society and on the basis of the FIR, West Agartala P.S. case No.41/2025 under [Section 167/193/384/420](#) and [409](#) of IPC was registered. Now let us see the documents relied upon by the petitioner- accused. At the time of hearing, Learned Senior Counsel for the petitioner relied upon Annexure-2 i.e a memo dated 06.07.2022. On perusal of the same, it appears that the respondent-TMC engaged/renewed the appointment of the petitioner firm and he was asked to file return in Form No.10BB upto the financial year 2022-2023 subject to payment of some fees and accordingly, the petitioner firm filed the return.

Thereafter, the respondent-TMC by another communication dated 28.11.2024 (Annexure-3) informed the petitioner firm to submit e-filing of Audit Report in Form 10B which was erroneously filed in 10BB in respect of the financial year 2022-2023 and assessment year 2023-2024. Meaning thereby, the respondent-TMC at the time of issuing of memo dated 06.07.2022 had no idea to submit Audit Report that's why they have asked the petitioner firm to submit return in Form 10BB in place of 10B. By this time, demand notice was issued and thereafter on 28.11.2024 the petitioner firm further Page 9 of 14 informed the respondent-TMC that in pursuance of their communication the return was submitted and as he was not in the panel, so, the authority was asked to contact with another auditor. Subsequently, by communication dated 03.12.2024 (Annexure-5) and 02.12.2024 (Annexure-6) the respondent- TMC further requested the petitioner firm to submit revised return in Form 10B in respect of the financial year 2022-2023 and assessment year 2023-2024 and in both the occasions it was requested to raise bill after completion of the task and thereafter, on 25.04.2025 the present FIR has been filed. From Annexure-7, i.e. the affidavit sworn by the petitioner firm, further it appears that there was some delay and in the affidavit in para Nos.3, 4, 5, 6, 7 and 8 the following assertions were made:

3. That our Firm had been looking after the Income Tax related matters including audit of accounts of the Institution approved [u/s 10\(23C\)\(vi\)](#) of the Income Tax Act, 1961 and have been issuing Audit Report in Form 10BB as prescribed in Income Tax Rules, 1962 and

electronically submitting the same on the Income Tax Portal and also submitting the Income Tax Return of the society for the post several years including the Assessment Year 2023-24 (Financial year 2026-24).

4. That the organisation, Tripura Medical College is a 10(23C) approved entity, therefore, we were filing the Audit Report in Form 10BB and accordingly for AY 2023-24 Form 10BB was signed on 07/10/2023 and the same was electronically filed on 10/10/2023.

5. That the amendment made by Income Tax (Third Amendment) Rules, 2023, prescribing common audit report format for 10(23C) approved entity and 12AB registered entity has escaped our attention and therefore, the audit report continued to be submitted in Form 10BB, whereas it should have been completed & uploaded in Form 10B.

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6. That CBDT Circular F. No.173/ II S/2024-

ITA-1 dt. 07/10/2024, extending the due date for submitting the audit report has come to our notice only in first week of December, 2024 and soon after we have obtained the Audit Report in Form 10B on 07/12/2024 and have electronically filed the same on 17/12/2024, resulting into a delay of 37 days in electronically filing of Form 10B from the extended due date of 10-11-2024.

7. That this delay of 37 days in filing the Audit Report in Form 10B has resulted because of unintentional omission on our part.

8. That our client, Tripura Medical College Dr Bram Teaching Hospital, had provided all the information relevant to Form 10B for AY 2023- 24 in due time and this delay has happened only because of omission on our part.

From the aforesaid assertions further it appears that the revised return was electronically filed on 17.12.2024 resulting into a delay of 37 days in electronically filing of Form 10B from the extended due date of 10.11.2024. From the contents of the FIR nowhere I find any irregularities on the part of the petitioner firm in committing any offence as alleged by the respondent-TMC because the initial return was filed under Form 10B in place of 10BB as per requisition of the TMC Authority.

05. Thus, after going through entire facts and circumstances of the case nowhere it appears that the action of the petitioner-accused attributes any of the offences as mentioned in the FIR. However, as relied upon by Learned Counsel for the respondent-TMC Hon'ble the Apex Court in the judgment in [State of Haryana and Ors. vs. Ch. Bhajan Lal and Ors.](#) dated 21.11.1990 reported in (1992) AIR 604 Page 11 of 14 wherein in para No.8.1 Hon'ble the Apex Court observed as under:

"8.1. In the exercise of the extra-ordinary power under [Article 226](#) or the inherent powers under [Section 482](#) of the Code of Criminal Procedure, the following categories of cases are given by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guide-17 myriad kinds of cases wherein such power should be exercised:

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under [Section 156\(1\)](#) of the Code except under an order of a Magistrate within the purview of [Section 155\(2\)](#) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act. providing efficacious redress for the grievance of the aggrieved party,

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge. [305D-H; 306A-E] 8.2. In the instant case, the allegations made in the complaint, do clearly constitute a cognizable offence just-17 on and this case does not call for the exercise of extraordinary or inherent powers of the High Court to quash the F.L.R. itself. [307B] State of West Bengal v.

S.N. Basak, [1963] 2 SCR 52; distinguished." I have also perused the observations made by the Hon'ble Supreme Court in the aforementioned case. From the aforesaid observation of the Hon'ble Supreme Court and after going through the contents of the FIR, prima facie I do not find any grounds to constitute any offence or make out a case against the accused. Nothing writ discloses any commission of cognizable offence. Further, as referred by Learned Senior Counsel of the judgment of the Hon'ble Supreme Court of India in *Kathyayini vs. Sidharth P.S. Reddy & Ors.* reported in (2025) LiveLaw (SC) 712 it also appears to this Court that the subject matter of the facts of that case are totally different from the facts of the present FIR laid by the respondent against the accused. There is no evidence of any criminal breach of trust and as indicated in the FIR by the respondent No.2. So, after going through the relevant papers relied upon by the petitioner, nowhere I find any latches on the part of the petitioner-accused in discharging his duties as chartered accountant firm and it appears to this Court that due to some misconception of facts this FIR has been registered against the present petitioner- accused without any basis. Furthermore, if there was any delay in filing the return in that case there might have some provision in the act to submit the same later on subject to proper Page 13 of 14 explanation. From the contents of the FIR sworn by the petitioner-accused, it appears that due reasons have been properly explained by the petitioner-accused in the matter in question. So, it appears to this Court that there was no justification on the part of the respondent-Authority to lodge any FIR against the present petitioner-accused as the contents of the FIR does not disclose commission of any

cognizable offence by the present petitioner-accused and none of the provisions as indicated in the FIR attracts against the petitioner- accused. The citations referred by Learned Senior Counsel for the respondent-complainant of [Bhajan Lal](#) (supra) rather attracts the case of the petitioner and another citation referred in no way supports the case of the respondent-complainant. So, after hearing the parties, it appears that this is a fit case where the jurisdiction of [Section 482](#) of Cr.P.C. corresponding to Section 528 of BNSS can be applied. More so, allowing continuation of the proceeding would be an abuse of the process of the Court.

06. In the result, the petitioner filed by the present petitioner-accused is hereby allowed. The entire proceeding of West Agartala, P.S. case No.041 of 2025 registered under [Sections 167/193/384/420](#) and [409](#) of IPC is accordingly stands set aside and quashed. The present petitioner-accused is accordingly discharged from this case.

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Send down the record to the Learned Trial Court along with a copy of this judgment/order.

Supply a copy of this judgment/order to the I.O. through Learned P.P. With this observation, this present petition stands disposed of.

Pending application(s), if any, also stands disposed of.

JUDGE Digitally signed by PURNITA DEB PURNITA DEB Date: 2026.09.25 17:38:23 +05'30'
Purnita