

04.9.2019

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

01.
SM

C.R.R.2 of 2019

In the matter of: **Ashish Kumar Biswas & Ors.**

Mr. Arnab Saha.
.....for the petitioners.

Mr. Arun Kumar Sarkar,
Mr. Sourav Ganguly.
.....for the State.

This revisional application has been preferred for quashing the criminal proceeding in respect of G.R. case No. 34 of 2019 arising out of Mathabhanga P.S. Case No.13 of 2019 dated 08.01.2019 under Sections 498A/313 of the Indian Penal Code.

Learned advocate for the petitioners submits that initially information was lodged with Samuktala P.S. by the father of the victim. However, that information although contained allegations which was in the nature of cognizable offence, yet the police authority did not register the case. Subsequently, the victim, Sanchita Sarkar (Biswas) on 08.01.2019 submitted a letter of complaint to the Inspector In-charge of Mathabhanga P.S. which was registered as Mathabhanga P.S. Case No.13 of 2019 dated 08.01.2019. It is the contention of the learned advocate that the subsequent information which was lodged by the victim and treated as First Information Report should be quashed.

The learned advocate for the State submits that prima facie allegations are made out in the letter of complaint and the investigation of the case is in progress, so far as the present petitioners are concerned and since the information referred to by the victim have been reduced into F.I.R., there is no scope for interfering with the subsequent investigation of the case.

I have taken into consideration the submissions advanced by both the parties and I hold that pursuant to the decision of the *Hon'ble Apex Court in Superintendent of Police, C.B.I. and others versus Tapan Kumar Singh, 2003 (6) SCC 175*, there is no scope at the stage of Section 482 of the Code of Criminal Procedure to decide or interfere in respect of a General Diary which has been recorded by the police and First Information Report which has been subsequently registered. The investigation of the case is in progress. As such, the investigation authorities would taken into account the allegations of both the G.D. Entry as well as letter of complaint and then come to the conclusion before filing of their report under Section 173 of the Code of Criminal Procedure.

In view of the observations made above, the present revisional application C.R.R. No.2 of 2019 is dismissed.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of requisite formalities.

(Tirthankar Ghosh, J.)

