

IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISIONAL JURISDICTION

Before:

THE HON'BLE MR. JUSTICE JAY SENGUPTA

C.R.R. 1140 OF 2020

With

CRAN 1 of 2020

(Old No. CRAN 4574 of 2020)

SURAJIT HALDER

VS.

THE STATE OF WEST BENGAL & ORS.

For the Petitioner: Surajit Halder In Person

For the State : Ranabir Roy Chowdhury
Arijit Ganguly

For the OP : Srikanta Paul

Heard on: 13.10.2020

Judgment delivered on: 13.10.2020

JAY SENGUPTA, J:

This is an application for quashing of an investigational proceeding under Sections 323, 324, 379 and 504 of the Indian Penal Code.

The status report regarding investigation by the Deputy Commissioner of Police, South West Division, Kolkata is taken on record.

The petitioner appearing in person submits as follows. The petitioner had admitted his father in a hospital and his father was

discharged from the hospital on 17th June, 2020. On the alleged date of occurrence, that is on 19th June, 2020, when the petitioner was cleaning his father, his sister appeared there and started making unsubstantiated allegations against him. Subsequently, due to personal grudge, the petitioner's sister initiated the present proceeding by filing a false First Information Report. The Investigating Officer who came to investigate the offence committed serious police excess. He assaulted the petitioner and broke his CCTV Camera and damaged other belongings inside the house. The allegations contained in the First Information Report are absolutely false and have been made maliciously by the defacto complainant to falsely implicate the petitioner. Among other things, the petitioner relies on newspaper reportings to improbabilise the prosecution case.

Learned counsel appearing on behalf of the State submits as follows. As would be evident from the report filed by the Deputy Commissioner of Police, South West Division, Kolkata as well as from the case diary, a prima facie case is clearly made out against the present petitioner. The stolen articles were seized from the petitioner. There were a number of statements of relevant witnesses recorded under Section 164 of the Code that implicated the present petitioner. If the petitioner has any grievance regarding police excess committed by the concerned investigating officer, he is always at liberty to approach the appropriate forum by ventilating such grievance.

Learned counsel appearing on behalf of the defacto complainant/opposite party no.2 opposes the prayer for quashing of proceeding and submits that such questions of fact as agitated by the petitioner cannot be decided by this Court in an application for quashing of a proceeding under Section 482 of the Code.

I have heard the submissions of the petitioner and the learned counsels appearing on behalf of the other parties and have perused the revision petition, the case diary and the report filed by the Deputy Commissioner of Police.

The petitioner's prime grievance is that although he had taken good care of his father, his sister had falsely and maliciously made allegations against him and instituted a false case. He has sufficient number of video recordings to show that the alleged occurrence would not have taken place in the manner as stated by the defacto complainant in the First Information Report. The petitioner's further grievance is that the investigating officer have committed serious police excess and even went on to assault him and damage his personal belongings.

However, on a plain reading of the First Information Report and the materials available in the case diary, it appears that a prima facie case is made out against the petitioner. Investigation is still going on and statements of the relevant witnesses were recorded under Section 164 of the Code. What the petitioner wants to agitate in this application is that the allegations leveled against him are false. Truthfulness or falsity of an

allegation cannot be decided in an application for quashing of proceeding under Section 482 of the Code.

The private documents that are being relied upon by the petitioner, if at all relevant, are not of sterling quality or unimpeachable character and thus, cannot also be looked into at this stage. On this, reliance may be placed on State of Orissa Vs. Debendra Nath Padhi, (2005) 1 SCC 568.

In view of the above, I do not find any merit in the application for quashing proceeding and the same is dismissed.

The connected application is disposed of accordingly.

However, the petitioner shall be at liberty to take up all the points raised before this Court at an appropriate stage before an appropriate forum.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

SM