

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 924 of 2021

Mithun Sardar

-vs-

The State of West Bengal & Ors.

For the Petitioner : Mr. P. Bandyopadhyay

Heard on : 26.03.2021

Judgment on : 26.03.2021

Jay Sengupta, J.:

Learned counsel appearing on behalf of the petitioner submits that due to inadvertence different proceedings have been sought to be quashed in a single application. He prays that leave may be granted to amend the cause title and prayer portion so that the petitioner is able to challenge the proceedings in respect of Bhangore P.S. Case No. 438 of 2020 dated 31.12.2020.

Leave is granted to amend the cause title and the prayer portion of the petition to this effect.

This is an application praying for quashing of an investigational proceeding in G.R. Case No. 31 of 2020 under Sections 195A, 323, 354 read with Section 34 of the Penal Code presently pending before the learned Additional Chief Judicial Magistrate, Baruipur, South 24 Parganas.

Learned counsel appearing for the petitioner submits as follows. The de facto complainant had earlier instituted a case against the petitioner, inter alia, under Sections 498A, 406, 354 307 of the Penal Code and the same is still pending. In the present case it was falsely alleged by the de facto complainant that the petitioner had been threatening and abusing the de facto complainant to withdraw the case started by him. Reference is made to an earlier declaration issued by the de facto complainant while leaving the matrimonial home and it is submitted that the same militates against the prosecutions lodged one after the other by the opposite party no. 3. In fact, at different points the petitioner had to take up the issue of not following due process of law before this Court in the writ jurisdiction. In the interest of justice, the impugned proceeding ought to be quashed.

I have heard the learned counsel appearing on behalf of the petitioner and have perused the revision petition.

The purported declaration given by the de facto complainant allegedly at the time of leaving her home is a thing that can best be appreciated by the learned Trial Court. Whether the same was done voluntarily or under duress cannot be tested by this Court. In any event, the contents of the purported undertaking do not have any bearing on the second case, which is being sought to be quashed in the present revision.

The F.I.R. lodged in this case clearly enumerates the kind of threats and abuses that the de facto complainant had to bear with.

A prima facie case is made out from the F.I.R. and the case is at the stage of investigation.

The truthfulness or falsity of allegations cannot be decided before a full-fledged trial. The instant proceeding involves several disputed questions of fact that can be dealt with only by the learned Trial Court.

Therefore, I do not find any justification to interfere with the impugned proceeding.

Accordingly, the revisional application is dismissed.

There shall, however, be no order as to costs.

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

(Jay Sengupta, J.)

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