

D/L38
October 1,
2021

C.R.R. No.1714 of 2012
(Via Video Conference)

Bpg.

In Re: An application under Section 401 of the Criminal Procedure Code, 1973 read with Section 482 of the Code of Criminal Procedure, 1973.

Saraswati Sinha & Anr.
Versus
State of West Bengal & Anr.

Mr. Raghunath Chakraborty,
Mr. Amrita De,
Ms. Tanusree Das.
...for the petitioners.

Mr. Arijit Ganguly,
Mr. Saryati Dutta.
...for the State.

Learned advocate for the petitioners argue that the disputes relate back to an incident of neighbours unnecessary disturbing the present petitioners and litigations being initiated amongst them.

The subject-matter of disputes started in respect of a report submitted before the learned Executive Magistrate under Section 144(2) of the Code of Criminal Procedure. Allegedly according to the complainant, the petitioners have attacked the police personnel and committed an offence in the nature of Section 353 of the Indian Penal Code.

Learned advocate relies upon an earlier order of this Hon'ble Court passed in the Constitutional Writ Jurisdiction, directing the Superintendent of Police to conduct enquiry regarding

the complaint made and according to the learned advocate, the present case was initiated/registered pursuant to the complaint being made with the Superintendent of Police with a view to wreak vengeance. It has been submitted by the petitioners that the factual foundation is an improbable one and, as such, this Court must exercise its jurisdiction under Section 482 of the Code of Criminal Procedure to quash the proceedings.

Mr. Dutta, learned advocate appearing for the State has opposed the contentions and has submitted that the documents which have been relied upon by the petitioners at this stage cannot be considered as those are not the subject-matter of the materials collected by the investigating agency in respect of which they have arrived at a foundation for submitting a report under Section 173 of the Code of Criminal Procedure.

On an appreciation of the submissions advanced by the petitioners, I am of the considered opinion that the application is premature as the petitioners are still not aware regarding the documents, statements of witnesses and/or other materials collected by the investigating agency and which are to be supplied under Section 207 of the Code of Criminal Procedure.

In view of the observations made above, I direct that after receipt of the documents under Section 207 of the Code of Criminal Procedure, the petitioners would be at liberty to agitate the points canvassed in the revisional application before the learned Magistrate at the stage of consideration of charge and thereafter approach this Court, if so advised. As such, no interference is called

for.

Accordingly, CRR 1714 of 2012 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)