

07.09.2021

Court No.34
Item No.4

Ab

CRR 2824 of 2015
With
I.A. No. CRAN 16 of 2020 (Old No. CRAN 200 of 2020)

(Physical Hearing)

In Re:- An application under Section 482 of the Code of Criminal Procedure, 1973;

And

In the matter of : **Romi Hirawat.**

...Petitioner.

Mr. Somopriyo Chaudhury,
Ms. Anshumala Bansal.

... For the petitioner.

Mr. Swapan Banerjee,
Mr. Suman De.

... For the State.

Report so submitted by the learned advocate for the State be kept with the record.

The present revisional application has been preferred challenging the proceedings arising out of Bidhannagar (East) Police Station Case No. 55 of 2015 dated 29th May 2015 under Sections 465/468/470/471/406/420/120B of the Indian Penal Code.

Earlier on 27th August 2021 a report was submitted by the Inspector in-Charge, Bidhannagar (East) Police Station, wherein it has been observed:

“In both the above noted two formal FIR lodged through Court Complaint i.e. 156(3) of the Cr.P.C. by the complainant Dr. Ajit Kumar Biswas S/O Late Upendranath Biswas residing at 6419 Massey Estate Cove, Memphis, Tennessee – 38120, United States of America it could be noted that the Place of Occurrence as well as the date of occurrence are the same, Complainant was same, name of the accused persons including name of the principal accused person were same, the noted disputed property are the same and nature of the allegation in both the cases are same.”

It is revealed that earlier the same complainant filed another case being Bidhannagar (East) Police Station Case No. 12 of 2011

dated 26th January 2011 against the present petitioner and the same ended in a final report, wherein the Investigating Authorities prayed for discharge of the accused persons.

The present case was initiated on the basis of an application under Section 156(3) of the Code of Criminal Procedure and the same was filed in the year 2015, wherein there are allegations, which were primarily also reflected in the earlier case being Bidhannagar (East) Police Station Case No. 12 of 2011 dated 26th January 2011.

As the order passed by the learned Magistrate while considering the report under Section 173 of the Code of Criminal Procedure in connection with Bidhannagar (East) Police Station Case No. 12 of 2011 dated 26th January 2011, gave liberty to the prosecution to open the matter in future if it is so required, I am of the view that the subsequent case, which has been registered vide Bidhannagar (East) Police Station Case No. 55 of 2015 dated 29th May 2015 is against the basic principle of law set down by the Hon'ble Supreme Court in the case of **Amit Bhai Anil Chandra Shah -vs- CBI**, reported in **(2013) 6 SCC 348**. The test of sameness decided by the Hon'ble Supreme Court in respect of a subsequent First Information Report being registered, is applicable to the Bidhannagar (East) Police Station Case No. 55 of 2015 dated 29th May 2015 and the continuance of the same is as such an abuse of process of the Code.

As such, all further proceedings arising out of Bidhannagar (East) Police Station Case No. 55 of 2015 dated 29th May 2015 is hereby quashed.

Accordingly, CRR 2824 of 2015 is allowed.

Pending application, if any, is consequently disposed of.

Interim order, if any, stands vacated.

(Tirthankar Ghosh, J.)

