

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 1719 of 2020

Madan Gopal Das
Vs.
State of West Bengal & Anr.

For the petitioner : Mr. Anupam Kumar Bhattacharyya
Mr. Sukhendu Banerjee
Mr. Dilip Kumar Mandal
Mr. Anirban Dey
Mr Mritunjoy Saha

For the State : Mr. S. G. Mukherjee, learned PP
Mr. Prasun Kumar Dutta, learned APP
Mr. Imran Ali

Heard on: 09.02.2021

Judgment on: 09.02.2021

Jay Sengupta, J.:

This is an application for quashing of a investigational proceeding under Sections 323,341,354 and 114 of the Indian Penal Code.

From the affidavit-of-service filed earlier, it appears that the defacto complainant/opposite party was served with a notice. Despite service no one represents the defacto complainant.

Learned Counsel appearing on behalf of the petitioner submits as follows. The name of the petitioner, Madan Gopal Das did not appear in

the F.I.R. as an accused, although the name of one Madan Mondal with a different address than the present petitioner appeared in the F.I.R. The present petitioner, whose name was different and had a different address, was being hounded by the police. This is a case of mistake not only in the name of the accused but also about the address. Any further continuation of the proceeding shall be an absolutely abuse of the process of Court.

Learned Public Prosecutor representing the State refers to the case diary and a report dated 21.01.2021 filed by the investigating officer of the case and submits as follows. It is true that initially the victim had mistakenly named one Madan Mondal having a different address than the present petitioner as an accused in this case. During investigation, it was found that it was not Madan Mondal, but the present petitioner named Madan Gopal Das having a different address who was the actual culprit. Reliance is placed on a subsequent statement of the victim lady recorded under Section 164 of the Code of Criminal Procedure. This Court was not satisfied with the mere statement of the victim. Accordingly, further investigation was done about whether any person bearing the name Madan Mondal stayed at the address as mentioned in the F.I.R. Reliance is also placed on the statements of local inhabitants namely, Dadbal Das, Dashrath Sahani, Rama Shankar Yadav, Kushal Singh and Uma Shankar Shaw who have categorically stated that no person in the name of Madan Mondal has been residing at the said address as mentioned in the F.I.R. The investigation of the case is on and a charge-sheet would soon be submitted in this case.

I have heard the submissions of the learned Counsels appearing on behalf of the petitioner and the State and have perused the revision petition, the case diary and the report filed by the investigating officer.

From the statement of the victim lady recorded under Section 164 of the Code of Criminal Procedure and the statements of the local inhabitants recorded under Section 161 of the Code of Criminal Procedure, the prosecution has been able to satisfy prima facie that the present petitioner was an accused in this case and not any Madan Mondal who was initially named in the F.I.R.

After considering the materials available in this case diary and after hearing the learned Counsels for the parties, I find no reason to interfere with the investigation of the case.

However, it shall be open to the petitioner to agitate the question of mistaken identity before the learned trial court in case the trial commences against the present petitioner in the present case.

With these observations, the revisional application is dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Jay Sengupta, J.)