

16.12.2021  
Court No.2  
Sl no. 40.  
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*CALCUTTA HIGH COURT  
IN THE CIRCUIT BENCH AT JALPAIGURI  
APPELLATE JURISDICTION*

**C.R.R 77 of 2021**

In the matter of : Mithu Das

..... petitioner

Mr. Krishnu Banik  
Mr. Tamal Kumar Sen

... for the petitioner

Mr. Shanghai Chowdhury

..for the O.P.no.2

Mr. Aniruddha Biswas

..for the State

Liberty is granted to the petitioner to correct the cause title by deleting the expression 'under Article 227 of the Constitution of India' and incorporating 'under Section 482 of the Code of Criminal Procedure'.

An investigation was initiated against the petitioner under Section 376 of the Indian Penal Code on the basis of the complaint filed by the Opposite Party no.2. The complaint was filed after sixteen months from the date of the alleged incident.

The date of incident as per the First Information Report is March 3, 2019 and the complaint was lodged on July 9, 2020 before the Officer-in-Charge, Women Cell, Jalpaiguri. Accordingly, Jalpaiguri Sadar Women P.S. Case No. 70 of 2020 dated July 9, 2020 was started under Section 376 of the Indian Penal Code. The petitioner submits that the petitioner has been falsely implicated in the case. That the complaint was baseless without any foundation or iota of truth and was filed only to wreak vengeance and was a

pressure tactic used for realization of her political ambition. It is prayed that the charge-sheet and proceedings be quashed.

Upon completion of the investigation, the charge sheet was submitted on February 8, 2021. The petitioner had been enlarged on bail by this Court.

The de facto complainant is represented before this Court and the learned Advocate does not oppose the prayer for quashing and the contentions of the petitioner are not denied by her.

Having considered the nature of allegations, the fact that the petitioner and the complainant were co-workers of the same political party and enjoyed a friendly relation as evident from the averments in the complaint, the delay of 16 months in lodging the complaint without any explanation, the refusal on the part of the complainant/O.P.2 to be examined by a medical officer and the reluctance to appear before the learned Magistrate for recording her statements under Section 164 of the Cr.P.C., this Court is of the opinion that the charge-sheet and the proceedings being G.R. Case No. 2806 of 2020, pending before the learned Chief Judicial Magistrate, Sadar, Jalpaiguri is liable to be quashed. The charge-sheet also does not inspire the confidence of the Court to hold that this is a fit case to go to trial. Thus, in my opinion, this is an appropriate case where the jurisdiction of the Court under Section 482, Cr.P.C. must be invoked, as a bare reading of the complaint and the contents of the charge-sheet, the records and statements of the complainant indicate that the allegations are frivolous and non-interference by this Court will amount to mis-carriage of justice.

Accordingly, C.R.R. 77 of 2021 is allowed. Charge-sheet being No.12 of 2021 dated February 8, 2021 filed in connection with Women P.S. Case No.70 of 2020 dated July 9, 2020, under Section 376 of the Indian Penal Code and all further proceedings corresponding to G.R. Case No.2806 of 2020, pending in the Court of the learned Chief Judicial Magistrate, Jalpaiguri are quashed.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

**(Shampa Sarkar, J.)**