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C.R.R.106 of 2021

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

Satya Ranjan Maity
Versus
The State of West Bengal and another

Mr. Dipanjan Chatterjee,
Mr. Kalyan Kumar Bhattacharjee,
Ms. Reshmi Khatun.
...for the petitioner.

Mr. Saibal Bapuli,
Mr. Arani Bhattacharyya.
...for the State.

The present application has been preferred challenging the proceedings of Kakdwip Police Station Case No.185 dated 03.09.2019 and the charge-sheet submitted therein under Sections 306/34 of the Indian Penal Code.

The allegations made in the letter of complaint which was treated to be the First Information Report in the instant case was to the effect that one Bimal Maity, complainant alleged that Satya Ranjan Maity and Naru Gopal Maity are his uncle who were also lawyers of learned ACJM court, Kakdwip. The accused no.3, Ashok Poda is also an accused, the complainant and his father had a land dispute for a prolonged period of time with all the three accused persons and there were civil litigations pending.

On 01.09.2019 at about 4.00 p.m. the accused nos.2 and 3 threatened the complainant's father that one of them happen to be the ex public prosecutor, they would implicate the complainant's

father/deceased in criminal case in such a manner that he would suffer life long sentence. On 02.09.2019 at about 8.00 a.m. the father of deceased disclosed in a detailed manner the incident which happened and also stated that if false cases are initiated against him how he would survive. At about 2.30 p.m. on 3.09.2019 the complainant's father, namely, Nishikanta Maity committed suicide by hanging himself at a firm house of Subash Pal situated nearby and from his undergarment a suicide note was recovered. The complainant alleges that his father was forced to commit suicide because of the accused persons who threatened him.

On the basis of the aforesaid complaint, Kakdwip Police Station Case No.185 of 2019 dated 03.09.2019 was registered for investigation under Sections 306/34 of the Indian Penal Code against the present petitioner along with two others.

In course of hearing of the revisional application, reports were called, for assessing whether there was any criminal case earlier pending either between the accused persons and the complainant or his father or any police case pending against the complainant or his father.

Mr. Saibal Bapuli, learned advocate appearing for the State submits report which reflects that there were no criminal cases pending against the complainant or his father which was at the instance of the accused persons.

Let the report be kept with the record.

It would be apposite to state that the complainant was called before this Court and through Mr. Bapuli, learned Additional

Public Prosecutor, he was asked as to whether any criminal case was instituted against his deceased father or against him to which he answered in the negative. As such, the background of the materials which were collected by the Investigating Agency with this case was taken into consideration.

I find that Investigating Authority on conclusion of investigation submitted charge-sheet relying upon 14 witnesses which included the complainant, other witnesses, one doctor, Judicial Magistrate, three police officers and an expert who happens to be the examiner of question documents.

I have also considered the opinion of the expert who opined regarding examined writings marked A1 to A5 as also examined writings B, C, D1 to D3. From the report it would be transparent that A1 to A5 referred to an excise book wherein the writings were available and B,C, D1 to D3 are writings which were available from the suicide note recovered from the undergarment of the deceased. Apart from the complainant, the witnesses who were examined by the Investigating Agency are Arabinda Roy Das, Pravat Jana, Souvik Paul, Bimal Kar, Rabindranath Maity and Madhabi Maity.

There is consistency in the statement of the witnesses who stated that often there was a dispute between the deceased and the accused persons and the accused/petitioner used to threaten that he would create circumstances compelling the deceased to suffer imprisonment.

I have also assessed the contents of the suicide note and

the contents of the same reflect that the petitioner being a lawyer intends to harass him as he has harassed other persons. I have considered the spirit of the contentions/allegations against the present petitioner and the crux of the same is that the petitioner being a lawyer and ex public prosecutor of the local court threatened the deceased that he would implicate him in a criminal case so that he would suffer imprisonment or life imprisonment.

The prosecution by its case intend to convey that the suicide was an outcome because of such threatening being made by the present petitioner. The case diary do not reflect that there was any other earlier case between the parties or there is any material to show that the present petitioner has implicated any other villager or for that matter any other person in false cases or any case for which he has to suffer the rigors of a criminal trial.

Having considered the totality of the circumstance and the foundation of the case on which the prosecution intends to allege that there has been abetment within the meaning of Section 107 of the Indian Penal Code to bring home the charges under Section 306 of the Indian Penal Code, I am of the opinion that the contents of the suicide note or for that the allegations made by the petitioner that there was an apprehension in the mind of the deceased that he may be implicated in a false case because of the petitioner being an ex public prosecutor of the local court do not create any circumstance to satisfy the foundation of abetment as defined under Section 107 of the Indian Penal Code.

Accordingly, the further continuance of the proceedings

so far as the present petitioner is concerned is an abuse of the process of court and, as such, the same is liable to be quashed.

Thus, all further proceedings arising out of Kakdwip Police Station Case No.185/2019 dated 03.09.2019 as also charge-sheet filed therein under Sections 306/34 of the Indian Penal Code is hereby quashed.

Accordingly, the revisional application being CRR 106 of 2021 is allowed.

Pending application, if any, is consequently disposed of.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)