

29.11.2022

Court No.35
Item No. 5

D.Hira

CRR 20 of 2016
With
CRAN 8 of 2019 (Old No. CRAN 3098 of 2019)

Sunil Poddar @ Sunil Kumar Poddar & Anr.
Vs.
The State of West Bengal & Anr.

Mr. Ayan Bhattacharjee,
Mr. Aditya Ratan Tiwari,
Mr. Somdev Ash.

... for the petitioners

Mr. Narayan Prasad Agarwala,
Mr. Pratick Bose..

... for the State

Challenging the proceedings pursuant to Bidhannagar (North) Police Station Case No. 237 of 2011 dated 3rd September, 2011 under Sections 341/506/509/468/361/511/34 of the Indian Penal Code, the petitioners have moved the present revision case. Their grounds in a nutshell are of baselessness of the allegations against them as well as absence of any cogent reasons to proceed against them and their prayer is for quashing of the entire criminal proceedings arising out of the said FIR being corresponding to G.R. Case No. 809 of 2011.

Mr. Ayan Bhattacharjee, learned Advocate appearing for the petitioners has pointed out to the FIR to submit that allegations are mainly directed against the other accused person and not the present petitioners. It is submitted that the petitioners are the brother of the principal accused person. Allegations of various offensive activities spreading over a long period of time has been made in the FIR against the principal accused person only.

According to him, so far these two petitioners are concerned, no case has been made out in the FIR to initiate any proceeding against them or to continue with the same.

Mr. Bose, learned Advocate appears for the State and raises

strong objection. According to him, since there has been sufficient materials found against the present petitioners during investigation. Charge-sheet has been filed against them and that the petitioners must be committed to trial.

Case diary is submitted in Court by Mr. Bose.

It is submitted that petitioners' involvement reveals from the materials collected during investigation as available in case diary including the witnesses' statement thereof.

In order to adjudicate whether the proceedings against the present petitioners on the basis of the FIR lodged by the opposite party no. 2 on 1st September, 2011 would be legible to be continued with the Court should see to whether prima facie case against the petitioners has been made out in FIR and from the materials so far available against them.

Perused the documents annexed with this petition as well as those available in the case diary regarding the alleged offence with which the present criminal case has been started. The ingredients thereof have to be made available against the petitioners in order to continue with the alleged proceedings against the petitioners.

It is pertinent to note that in the FIR excepting mentioning name of the petitioners and alleging in a very general tone as regards their involvement and offering assistance to the principal accused person in committing the crime, the other specifications thereof are not mentioned.

Perused the materials available in case diary very careful.

Upon the consideration it is found that in the case diary also the specific allegations against the petitioners is not available.

It is a trait law that in order to prosecute against the person the

allegations against him must be specifically narrated.

In view of the same and also keeping in mind, the tests enumerated to proceed against a person in a criminal case as made in the case of **1992 Supp (1) SCC 335 (also AIR 1992 SC 604) (State of Haryana vs. Bhajanlal)**, which warrant that the facts stated should lead to a strong prima facie case to be suggested against the accused persons to proceed against them. This Court is constrained to hold that in this case the criteria as above is far from being complied with.

The materials available against the petitioners in the FIR as well as case diary do not explicitly indicate the specific and categorical role of the petitioners, in commission of the alleged crime.

Considering the same. It is found that in absence of specific, cogent and sufficient materials against the petitioners, at least prima facie, any criminal proceeding against them would be an abuse of the process of Court and on this ground the revision is legible to be allowed.

Accordingly, CRR 20 of 2016 is allowed.

The criminal proceedings initiated in connection with Bidhannagar (North) Police Station Case No. 237 of 2011 dated 3rd September, 2011 under Sections 341/506/509/468/361/511/34 of the Indian Penal Code is quashed and set aside.

Case diary be returned.

All pending applications, if any, are consequently disposed of.

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

(Rai Chattopadhyay, J.)

