

26.04.2022

Item No.48
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 542 of 2020

**Jishnu @ Bishnu Biswas & Ors.
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973 filed for quashing of the proceedings being G.R. Case No. 4239 of 2014 arising out of Barasat Police Station Case No. 353 of 2014 dated 17.04.2014 under Sections 448/323/34 of the Indian Penal Code pending before learned Judicial Magistrate, 1st Court, Barasat.

Mr. Uday Sankar Chattopadhyay,
Mr. Suman Sankar Chattopadhyay,
Mr. Santanu Maji,
Ms. Trisha Rakshit ... For the Petitioners.

Mr. Swapan Banerjee,
Mr. Suman De ... For the State.

Mr. Younush Mondal ... For the Opposite Party No.2.

The present revisional application has been preferred challenging the charge-sheet submitted in connection with Barasat Police Station Case No. 353 of 2014 dated 17.04.2014 under Sections 448/323/34 of the Indian Penal Code.

Mr. Chattopadhyay, learned advocate appearing for the petitioners submits that the petitioners have been implicated in the present case out of personal grudge and as a counterblast to Barasat Police Station Case No. 205 dated 08.03.2014 under Sections 498A/323/34 of the Indian Penal Code.

Mr. Mondal, learned advocate appearing for the opposite party no.2 opposes the contentions advanced by the

learned advocate for the petitioners and submits that the incident had taken place and as such, the complaint was lodged. Learned advocate submits that there is no falsity attached to the allegations made in the petition of complaint and the accused being the present petitioners should be tried before a court of law.

Mr. De, learned advocate appearing for the State submits the report of Inspector-in-Charge, Barasat Police Station, North 24-Parganas which supports some of the contentions advanced by the learned advocate for the petitioners regarding the particulars so submitted before a court of law. The application under Section 156(3) of the Code of Criminal Procedure which was the point of initiation of registration of Barasat Police Station Case No. 353 of 2014 refers to GDE No. 627 dated 07.03.2014 and also in support of narration of the incident that the petitioners on 07.03.2014 at about 20.00 hours came to the house of the complainant in a white colour Ambassador car bearing No. WB-192689 and entered the house of the complainant.

The report so submitted by the learned advocate for the State reflects that the General Diary was at the instance of one Mannan Ali and the vehicle number which has been referred to as Ambassador car is a three-Wheeler (Autorickshaw).

Ordinarily this Court does not rely upon such factual alibi, but having regard to the fact that a case under Section 498A of the Indian Penal Code was earlier registered and the present case has been filed as a consequence of counterblast

to the same, I am of the opinion that the issue of malafide is prominent over here. Consequently the proposition of the Hon'ble Supreme Court in the decision of ***Vineet Kumar and Others Vs. State of Uttar Pradesh and Another*** reported in ***(2017) 13 Supreme Court Cases 369*** lays its foundation in respect of Clause 6 of the settled proposition in ***State of Haryana Vs. Bhajan Lal*** reported in ***AIR 1992 SC 604*** is attracted.

Thus, all further proceedings arising out of Barasat Police Station Case No. 353 of 2014 dated 17.04.2014 including the charge-sheet submitted therein as also the order so passed taking cognizance of the offences are hereby quashed.

Accordingly, the revisional application being CRR 542 of 2020 is allowed.

Interim order, if any, is hereby made absolute.

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

The report dated 22.04.2022 so submitted be kept on record.

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 with all requisite formalities.

(Tirthankar Ghosh, J.)