

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 875 of 2022

Uma Sankar Bhattacharyya & ors.
Vs.
State of W.B. & another

For the Petitioners : Mr. Dipayan Kundu

Heard on: 23 March, 2022

Judgment on : 23 March, 2022

The Court:

This is an application praying for quashing of a proceeding in which a charge-sheet was submitted under Sections 323, 325, 341, 354, 448, 504 and 506 read with Section 34 of the Indian Penal Code.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioners are the accused in this case while the opposite party no.2 is the informant. There is a long standing dispute between the adverse parties. Certain steps were taken by the

Chandannagar Municipality in respect of the purported business carried out by the opposite party no.2. This prompted opposite party no.2 to institute several criminal cases against the present petitioners including the instant one. This case was actuated by malice. The petitioners did not commit the alleged offences. No prima facie case is made out as would be evident from a plain reading of the First Information Report and the charge-sheet. Any further continuation of the impugned proceeding shall be an abuse of the process of Court.

I have heard the learned counsel appearing on behalf of the petitioners and have perused the revision petition.

The defacto-complainant in the present First Information Report among, other things, alleged that the accused opposite parties were local anti-socials who used to threaten anyone who would protest against their activities. In 2017, a general diary was registered regarding assault on the informant and her family members by the accused. Again a complaint had to be lodged on 09.12.2019 over similar incidents of assault. On the particular date and time, she alleged that the informant's husband was sitting with their daughter and doing business at their own residence. At that time, the accused, being armed with wooden stick, knife and revolver, illegally trespassed into their house, abused and assaulted them. They looted articles and molested the defacto-complainant. Even the daughter of the defacto-complainant was also sexually assaulted. Several articles were stolen.

One of the accused lit a match stick and threw it towards the defacto-complainant husband as a result of which he suffered injuries. A general diary was registered. But, the police did not record the First Information Report for which an application was filed under Sections 156 (3) of the Code.

After completion of investigation, a charge-sheet was submitted against the accused. The bed-head ticket/injury report was collected and a doctor was cited as a witness.

It appears that a prima facie case is made out against the petitioners as would be evident from a plain reading of the First Information Report and the charge-sheet.

Whether the petitioners actually committed such offences is purely a disputed question of fact which cannot be decided in an application for quashing.

Therefore, I do not find any merit in this application.

Accordingly, the revisional application is dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta,J.)

