

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

CRAN 2 of 2022
In
CRR/1188/2022

Binoy Roy
-Vs-
The State of West Bengal & Anr.

For the Petitioner: Mr. Rajdeep Mazumder, Adv.,
 Mr. Moyukh Mukherjee, Adv.

For the State:- Mr. Swapan Banerjee, Adv.,
 Mr. Anindya Sundar Chatterjee, Adv.

For the Opposite party No.2:-
 Mr. Dipayan Kundu, Adv.

Heard on: 22 August, 2022.

Judgment on: 22 August, 2022.

BIBEK CHAUDHURI, J. : –

1. In view of the order dated 7th July, 2022, the instant revisional application is taken up for hearing.
2. The petitioner is a Sub-Inspector of Railway Protection Force, Personnel posted at RPF out post at Basirhat. It is alleged that illegal immigrants and local people under the leadership of one Bhola Mondal and Bapi Sil, local goons have been trying to take illegal possession of

land belonging to the Railways situated by the side of Basirhat Railway Station. They have been also trying to raise unauthorized construction on the railway land to grab the government property. The petitioner with the help of other RPF Personnel posted at Basirhat RPF outpost have been residing such illegal activity of the above named Bhola Mondal and Bapi Sil for long. On 18th March, 2022, 4/5 persons being armed with iron rods, wooden sticks and fire arms attacked on duty RPF Personnel and assaulted them with the help of iron roads and wooden sticks. Hearing hue and cry, the petitioner came out of the Barrack, then he was mercilessly assaulted by the said emigrants. The petitioner and another RPF Personnel were admitted to Basirhat Sub-Divisional Hospital for medical treatment following such assault.

3. The petitioner lodged a written complaint with the Officer-in-Charge of Basirhat P.S on the basis of such FIR Case No.152 of 2022 dated 19th March, 2022 was registered against the said Bhola Mondal and Bapi Sil and 4/5 other unknown emigrants under Sections 341/323/325/307/506/34 of the IPC read with Sections 25/27 of the Arms Act. Accused Bhola Mondal and Bapi Sil was arrested and was remanded to police custody for two days by the learned Additional Chief Judicial Magistrate, Basirhat on 22nd March, 2022.

4. Subsequently, it came to the notice of the petitioner that Basirhat P.S Case No.151 of 2022 dated 18th March, 2022 was registered on the basis of a complaint submitted by one Smt. Puspa Karmakar, alleging, inter alia, that on 18th March, 2022 at about 3.30 pm the present

petitioner with other RPF Officers wrongfully restrained the defacto complainant committed assault upon her, outraged her modesty and criminally intimidated her.

5. It is alleged by the said petitioner that the defacto complainant of Basirhat P.S Case No.151 of 2022 submitted the written complaint against the petitioner with some false concocted allegations at a later point of time after registration of G.R Case No.1002 of 2022. The formal FIR of G.R Case No.1002 of 2022 was forwarded to the court of the learned Additional Chief Judicial magistrate at Basirhat on 28th March, 2022. However, the FIR of Basirhat P.S Case No.151 of 2022 dated 18th March, 2022 registered on the basis of a complaint submitted by one Pushpa Karmakar, was transmitted to the court of the learned Additional Chief Judicial Magistrate on 22nd March, 2022, i.e., the day when accused Bhola Mondal and Bapi Sil were produced from police custody before the learned ACJM, Basirhat. It is also pointed out on behalf of the petitioner that after the formal FIR was produced before the learned CJM in respect of the case instituted on the basis of a complaint made by Pushpa Karmakar on 22nd March, 2022 the learned ACJM registered the case as G.R Case No.1027 of 2022.

6. It is urged on behalf of the petitioner that accused Bhola Mondal and Bapi Sil have the backings of the ruling political party. They are the local goons. They framed one Puspa Karmakar to lodge a false complaint against the petitioner. They also managed local police administration to register the said case putting No.151 dated 18th March, 2022. But the

police authority did not transmit the FIR Case No.151 dated 18th March, 2022 within 24 hours of recording of such FIR. On the contrary the FIR was produced before the learned ACJM, Basirhat on 22nd March, 2022.

7. I have heard the learned Advocate for the petitioner and the learned P.P-in-Charge. It is true that FIR Case No.152 of 2022 dated 19th March, 2022 was transmitted and placed before the learned ACJM, Basirhat on 28th March, 2022. Surprisingly enough FIR Case No.151 of 2022 was placed before the learned Magistrate on 22nd March, 2022. The learned P.P-in-Charge failed to offer any explanation as to why the FIR Case No.151 of 2022 was not produced before the learned Magistrate on 20th March, 2022.

8. Be that as it may, belated transmission of FIR by the police authority to the learned Magistrate appears to be a irregularity, but a case containing allegation of commission of criminal offence cannot be held to be false and concocted at this initial stage of investigation. Veracity of a criminal case depends upon the nature of evidence collected by the Investigating Officer. At the initial stage of investigation, this Court is not in a position to hold that FIR Case No.151 of 2022 dated 18th March, 2022 contains false and concocted statement which is liable to be quashed. On perusal of the entire materials on record, this Court is not in a position to hold that the criminal revision arising out of FIR Case No.151 of 2022 is manifestly attended with mala fide and/or the proceeding is maliciously instituted with an ulterior motive by racking

vengeance of the accused and with a view to spite him due to private and personal grudge.

9. For the reasons stated above I do not find any merit in the instant revision and accordingly the instant revision is dismissed on contest.

(Bibek Chaudhuri, J.)