

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 1267 of 2022

Puspa Kalsar & Ors
-vs-
The State of West Bengal & Anr.

For the Petitioners : Mr. Suman De
Mr. Debanshu Ghorai

Heard on : 06.05.2022

Judgment on : 06.05.2022

Jay Sengupta, J.:

This is an application praying for quashing of proceeding in which charge sheet was submitted under Sections 448, 447, 354, 354A, 323, 325, 307, 379, 506, 34 of the Indian Penal Code read with Section 8 of the Protection of Children from the Sexual Offences Act.

Learned Counsel appearing on behalf of the petitioner submits as follows. The petitioners are the relatives of the defacto complainant/opposite party No. 2. There were

number of disputes pending between them. A false case was started by the opposite party No. 2 alleging that her two minor daughters were sexually assaulted by the accused and on the next date other members of the family were also assaulted. There is a delay in filing the application under Section 156(3) of the Code. In the interest of justice, it is necessary to look into the G.D. entry that was lodged. From the charge sheet it appears that no article has been seized in connection with the present case. As would appear from a copy of the charge sheet, the medical report did not fully support the prosecution case. The petitioners are absolutely innocent and have not committed the offences as alleged.

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

From a plain reading of the First Information Report it appears that the petitioners alleged that on 12.07.2020 at about 22.00 hrs at night the two minor daughter of the informant were taking rest in their bed room and at that point the accused Nos. 3 and 4 forcibly entered into the room and sexually assaulted them. When the two children cried out, the accused fled away. On the next date the family members

protested about the incident. Then the accused assaulted the relatives of the victims. The victims have to be treated in a hospital and a G.D. entry was lodged at the local police Station. Since no steps were taken, the opposite party No. 2 was constrained to file a complaint under Section 156(3) of the Code of Criminal Procedure.

It appears that during investigation the victims were medically examined and statements were recorded under Section 164 of the Code of Criminal Procedure.

The nature of assault that has been alleged in the First Information Report does not necessarily imply that there would be a mark of such assault, which could be found out by medical examinations.

The medical report does not preclude the possibility of commission of such an offence as alleged.

The version given in the G.D. entry can very well be looked into at the subsequent stage of trial. At this stage calling for such record would amount to undertaking roving and fishing inquiry.

The points taken upon by the petitioners are essentially related to a disputed questions of fact, which can be decided

only during trial. Otherwise from a plain reading of the First information report and the charge sheet, it appears that a prima facie is made out against the petitioners.

Therefore, I do not find any merit in application.

Accordingly, the same 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.)

PM