

22.09.2022.

Item No. 53

ap

C.R.R. No. 1438 of 2021

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973 filed on 13.07.2021;

And

In the matter of: Nur Islam Molla & Ors. ...petitioners.

Mr. Sanjib Das.

...For the petitioners.

Mr. Sudip Ghosh,

Mr. Bitasok Banerjee.

...For the State.

A report submitted by Mr. Bitasok Banerjee, learned Advocate for the State be kept with the record.

The subject matter of challenge in this revisional application relates to Dadpur Police Station Case No. 90 of 2020 dated 26.08.2020 wherein charge-sheet was submitted under Sections 143/448/427 of the Indian Penal Code.

Learned counsel for the petitioners submits that so far as the property in which narration of facts regarding assault, trespass and committing mischief has been commented belongs to the petitioners. He further submits that the said property is a vacant land. It has also been submitted that from 2001 onwards the proceedings were initiated and decided wherein all the orders were passed against the complainant and/or his associates yet the present criminal case has been instituted which is in respect of a delayed incident of about a fortnight and the police authorities perfunctorily investigated the same and submitted charge-sheet against the present petitioners.

Earlier a report was called for from the State. Today a report has been submitted which reflects that the legal heirs

of the complainant are interested to pursue the present case. The petitioners approached this Court at the stage when the charge-sheet was submitted. However, the document under Section 207 of the Code of Criminal Procedure on which the prosecution intends to rely upon are yet to be handed over to the present petitioners.

The foundation of grievances relate to previous order of the Tribunal and liberty granted by the Writ Court to approach the Civil Court for appropriate remedy.

Be that as it may, the subject matter relates to quashing of a proceeding wherein charge-sheet has been submitted.

It is a question of fact to be decided whether the petitioners' trespassed or committed mischief. Documents so produced of the Tribunal were supposed to be placed before the Investigating Agency, who could have taken assistance of the same before filing their report under Section 173 of the Code of Criminal Procedure.

The petitioners are, therefore, granted liberty to agitate the points canvassed in this revisional application and place the orders particularly that of the Tribunal at the stage of consideration of charges before the learned Magistrate.

No interference is called for at this stage as none of the prosecution evidence has been placed or enclosed with the revisional application.

With the aforesaid observations, C.R.R. No. 1438 of 2021 is disposed of. Pending application, if any, is consequently disposed of.

All parties shall act on the basis of copy of this order downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)