

06.12.2022

Court No.35
Item No. 12

D.Hira

CRR 1502 of 2016

**Md. Jamal & Anr.
Vs.
The State of West Bengal & Anr.**

Mr. Arindam Jana,
Mr. Arnab Sengupta,
Ms. Mallika Manna.

... for the petitioners

In this revision, the petitioners have challenged the entire proceedings in connection with Adra Police Station Case No. 9 of 2016 dated 26.01.2016 under Sections 195A/341 of the Indian Penal Code, the connected G.R. Case No. being 39 of 2016.

The factual background in brief would be that the petitioners being the accused persons in an earlier case under Section 302 of the Indian Penal Code has been alleged to have subjected the opposite party no. 2 to intimidation and threat for withdrawal of the said previous case against them. It is alleged that the opposite party no. 2 has been threatened by the accused persons/petitioners to depose falsely in Court, in connection with the said previous case.

On the allegations as above, the present case was lodged on 26th January, 2016 and was registered as Adra Police Station Case No. 9 of 2016 dated 26.01.2016 under Sections 195A/341 of the Indian Penal Code.

The petitioners have challenged the entire proceedings thereof on the ground that the Adra Police Station Case No. 9 of 2016 dated 26.01.2016 under Sections 195A/341 of the Indian Penal Code is only a malicious proceeding against them substantiated with no cogent grounds.

It is further submitted that the continuance of the said criminal

proceedings against them would amount to misuse of the process of Court and *de hors* the settled legal principles.

On the ground as above, the petitioners have prayed for quashment of the entire proceedings as mentioned above.

Today when the matter is called on, the opposite parties including the State are not represented.

From the affidavit-of-service filed in Court on behalf of the petitioners, it appears that the opposite parties have been notified vide letter dated 17th November, 2022. The service is found to be complete and let the affidavit-of-service be kept with the record.

In absence of the opposite parties, it is presumed that they have no argument to offer in Court in connection with this case.

Mr. Jana, learned Advocate for the petitioners have handed over the copy of the judgment of the Sessions Court at Purulia in Sessions Case No. 284 of 2015 and submitted that the case against the present petitioners under Section 302 of the Indian Penal Code along with the relevant Sections of Arms Act has ended into acquittal of the accused persons.

Hence, it is submitted that the present case has actually lost its relevance.

It is for consideration of the Court, if the proceedings initiated against the petitioners would be subjected to an order of quashment or not. This Court is to look into the fact whether any strong *prima facie* case is maintained against him or from the materials available against him, whether the case lodged against him would suffer from the attributes like malice or *mala fide* intention. For this, one may resort to the celebrated judgment of ***State of Haryana & Ors. vs. Bhajanlal & Ors.*** reported in ***1992 Supp. (1) Supreme Court Cases 335*** in which the Hon'ble Supreme Court has categorized the criteria for

consideration of a revision Court while deciding upon the question of continuance of a proceedings in the Trial Court against the accused persons.

In this matter, I find that the basic ingredients of offence under Section 195A/341 of the Indian Penal Code are not available against the petitioners.

From the records and documents annexed with the petition itself, it appear that the prima facie of those are not available to construe existence of convincing and sufficient materials to proceed against the petitioners. It would be beneficial to take into account the subsequent development in the case that is acquittal of the accused persons/petitioners in the previous case under Section 302 of the Indian Penal Code being Sessions Case No. 284 of 2015.

All these prompt me to find that there shall be no cogent reasons to proceed against the petitioners in this case any further.

It is also held that further proceedings in this case would be an abuse of the process of the Court, in view of the fact of absence of any cogent and tangible materials against the petitioners so far as the offence alleged against him is concerned.

On the ground as above, I do not find any reason to decline petitioners' prayer.

Hence, the revision being 1502 of 2016 is allowed.

Let the proceedings in the Trial Court in connection with Adra Police Station Case No. 9 of 2016 dated 26.01.2016 under Sections 195A/341 of the Indian Penal Code, the connected G.R. Case No. being 39 of 2016 be quashed and set aside.

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

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Rai Chattopadhyay, J.)