

21.11.2022
S/L No.36
KS

C.R.R. 1509 of 2021

Sri Raj Kumar @ Raj Kumar Mahato & Anr.

-Vs.-

Sri Rabi Roy @ Rabi Raj Bhar & Anr.

Mr. Abhra Mukherjee

Ms. Nibedita Chakraborty

.....For the Petitioners

Mr. Prasun Kumar Dutta

Mr. Nirupam Dhali

.....For the State

Mr. A. Mukherjee

Mr. Prabir Adhya

.....For the O.P. No.1

Mr. Mukherjee, learned advocate appearing for the petitioners submits that the genesis of dispute between the parties arise out of the usage of a common passage and the medical reports in both the cases would reflect that injuries were sustained by members of each of the family. It has been emphasized that the charge-sheet which has been filed in connection with the instant case is under Sections 341/ 323/ 354/ 506/ 34 of the Indian Penal Code although, in the First Information Report there was no allegation in respect of Section 354 of the Indian Penal Code and the same has been subsequently improved by the witnesses in their statement under Section 164 of the Code of Criminal Procedure. Additionally, it has been submitted that the investigating authority has relied upon only the members of the family to substantiate the charges in the present case.

Learned advocate has also drawn attention of the Court to the other case wherein the complainant happens to be an accused. It has been pointed out that the injury report itself would go to show that the incident occurred at the roadside, however, no independent witness till date has been examined to support the prosecution case.

Learned advocate appearing for the petitioner submits that Jagacha Police Station Case No.150 of 2020 dated 10.08.2020 was registered earlier and Jagacha Police Station Case No.151 of 2020 dated 10.08.2020 was registered later, as such, the close proximity of time would go to apply either the test of sameness or a case and the counter-case.

Learned advocate appearing for the private opposite party is present and opposes the prayer for quashing so advanced at the instance of the petitioner and it has been submitted that the petitioners are thickly connected with the alleged offence and unless and until a full-fledged trial is conducted, there is every possibility of the complainant being prejudiced.

Learned advocate appearing for the State has produced the Case Diary and drawn the attention of the Court to the injury report.

Learned advocate submits that the police on conclusion of investigation has submitted the charge-sheet which is prima facie making out an offence for facing trial in a Court of Law.

I have assessed the contentions advanced by each of the petitioners and I find that there are mixed question of facts and law

which cannot be summarily adjudicated without the assessment of the same being made by the Learned Court of Law at the stage of consideration of charges.

Having regard to the nature of the allegations and the fact that Jagacha Police Station Case No.150 of 2020 and Jagacha Police Station Case No.151 of 2020 were registered by one and the same police station and the inter se parties being effected are same, I direct that the trial of Jagacha Police Station Case No.150 of 2020 and Jagacha Police Station Case No.151 of 2020 would be tried by one and the same Court.

The petitioners would be at liberty to canvass the points advanced in the present revisional application before the Learned Trial Court at the stage of consideration of charges.

No interference, at this stage, can be made.

Accordingly, C.R.R. 1509 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

Needless to state that this Court has not assessed the factual matrix of the case and the Learned Trial Court would independently arrive at its opinion without being influenced by any of observation made by this Court while disposing of the present revisional application.

All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)

