

07-03-2022
Subha
Item-12
Ct -.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 1369 of 2019
with
CRAN 2 of 2019(Old No. CRAN 3108 of 2019)

In Re: An application under Section 482 of Code of Criminal Procedure, 1973.

In the matter of : **Sri Suprakas Pattanayak**
...Petitioner.

Mr. Kaushik Gupta
Mr. Saryat Datta
.....for the Petitioner.

Ms. Sohini Bhattacharyya
.....for the Opposite Party.

The present revisional application has been preferred challenging the proceedings arising out of Complaint Case No. 495 of 2016 pending before the learned Judicial Magistrate, 3rd court, Barrackpore. The present petitioner at the relevant point of time happened to be the Officer-in-Charge of the Ghola Police Station.

The allegations made against the present petitioner has been set out in paragraph 24 of the complaint which is as follows:-

24. That the petitioner states that thereafter on 02.02.2016 petitioner received a notice from the officer-in-charge, Ghola Police Station directed your petitioner to meet with him within 3 days of receiving this notice and in the said notice it was mentioned that superior officer directed him to enquire into the petition and submit report within 10 days but on the next day when the petitioner went to the Ghola Police Station to meet with

the officer-in-charge, the said officer-in-charge again asked your petitioner the reason for not filing non prosecution application regarding all civil and criminal cases pending against the opposite parties in different courts.”

There are allegations against the other officers of police station, however this court has not been called upon to either interfere on the said issue or decide on the same.

Mr. Gupta, learned advocate appearing on behalf of the petitioner submitted that whether the allegations made in the petition of complaint so far as the present petitioner is concerned makes out any offence and in the alternative, if an offence is made out whether the petitioner is entitled to protection under Section 197 of the Code of Criminal Procedure.

The petitioner approached the learned court below with the prayer for discharging him on the self-same grounds, however, the learned court having dismissed the same the petitioner has approached this court.

I have assessed the allegations made in the petition of compliant wherein it has been alleged that the complainant went to the Ghola Police Station. The Officer-in-charge of the said Police Station “asked” the complainant the reasons for not filing non-prosecution application regarding the civil and criminal cases pending against the accused/opposite parties.

Prima facie, I do not find that the communication of the Officer-in-Charge should be restricted and if such an incident has

happened within the office of the officer-in-charge of the Gholia Police Station obviously the same was in discharge of his official duties. Needless to state that there is no allegation of any overt acts or any threats or any abuse being hurled upon the complainant.

This compliant was filed on 22.09.2016. The complainant was examined on 15.12.2016. In the examination under Section 200 of the Code of Criminal Procedure there are also allegations against the officer-in-charge that he only “asked” for filing non-prosecution regarding the cases filed by the complainant.

I have considered the allegations made by the complainant in the petition of complaint as also the examination under Section 200 of the Code of Criminal Procedure and I am of the opinion that if the allegations are accepted in its entirety, the same do not reflect any overt act or overzealous role of the officer-in-charge so as to ask him to face the ordeal of a criminal trial.

There are also no allegations of excess, the words referred to are “asked” to the complainant and the word “asked” has been referred to both in the petition of compliant and in the examination under Section 200 of the Code of Criminal Procedure.

Having regard to the nature of the contentions made in the petition of compliant as well as the examination under Section 200 of the Code of Criminal Procedure, I am of the opinion that the same do not assign any role of the officer-in-charge to come within the ambit of any offence under the provisions of the Indian Penal

Code.

As such no case is made out and the continuance of the proceedings against the petitioner is an abuse of the process of the court and the same as such is bound to cause miscarriage of justice.

Thus, all further proceedings so far as the present petitioner namely, Sri Suprakas Pattanayak is concerned being Compliant Case No. 495 of 2016 pending before the learned Judicial Magistrate, 3rd court, Barrackpore, is, hereby quashed.

Accordingly, the present revisional application being CRR 1369 of 2019 is allowed.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

Interim order, if any, is, hereby, made absolute.

However, the proceedings are quashed based on the materials available in the petition of compliant and under Section 200 of the Code of Criminal Procedure, if subsequently in course of evidence materials appear against the present petitioner, the learned Magistrate would be at liberty to invoke the provisions of Section 319 of the Code of Criminal Procedure and proceed in accordance with the law.

All concerned parties are to act in terms of a website copy of this order duly downloaded from the official website of this court.

(Tirthankar Ghosh, J.)

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