

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

CRR 2152 of 2022

Tapas Chatterjee @ Tapas Kumar Chattopadhyay

-Vs-

The State of West Bengal & Anr.

For the Petitioner: Mr. Tanmoy Chattopadhyay, Adv.

Heard on: 11th July, 2022.

Judgment on: 11th July, 2022.

BIBEK CHAUDHURI, J. : –

1. By invoking the inherent power of this Court, the petitioner has prayed for quashing of the proceeding being GR Case No.6721 of 2017 arising out of Liluah Police Station Case No.313 of 2017 dated 20th November, 2017 under Sections 188/323/354B/427/506 of the IPC presently pending before the learned Judicial Magistrate, 7th Court at Howrah, the petitioner has filed the instant criminal revision.

2. It is submitted by the learned Advocate for the petitioner that on 18th November, 2017 some local people with the opposite party No.2 being a member of Anandanagar Gram Panchyat assembled by the side of the petitioner's house and tried to illegally fill up the water body with the sand. When the petitioner raised objection he was intimidated and

assaulted by the opposite party No.2 and her associates. The petitioner went to the Liluah P.S to lodge FIR but police initially refused to accept the FIR. Subsequently, on 19th November, 2017 when police attached to Liluah P.S saw the petitioner trying to contact with higher authorities of the police department dialing phone No.100, his written complaint was registered and Liluah P.S Case No.312 dated 19th November, 2017 under Section 447/323/24 of the IPC was initiated against the opposite party No.2. After getting the information of the case instituted by the petitioner, the opposite party No.2 lodged a belated FIR against the petitioner which gave rise to Liluah P.S Case No.313 dated 20th November, 2017 under Section 188/323/354B/379/427/506/34 of the IPC. The petitioner came to know about the said case on receipt of a notice under Section 41A of the Cr.P.C on 14th December, 2017. It is alleged on behalf of the petitioner that the FIR on the basis of which subsequent P.S Case No.313 dated November, 20, 2017 was registered, contains false, concocted and frivolous statement. The opposite party No.2 and his men and agents tried to fill up water body illegally by sands. Investigation of Liluah P.S Case No.313 dated 20th November, 2017 ended in filing the charge-sheet before the learned Chief Judicial Magistrate, Howrah. The petitioner was not served with the copies of the statement recorded under Section 161 and 164 of the Cr.P.C during investigation of the said case in spite of repeated request made by him. Therefore, the petitioner has prayed by quashing the proceeding being GR Case No.6721 of 2017 filed against him on the basis of the complaint lodged by opposite party No.2.

3. It is submitted by the learned Advocate for the petitioner that as per the FIR submitted by the petitioner incident took place on 18th November, 2017 at around 12 pm. On the other hand, the opposite party No.2 in her written complaint stated that on 19th November, 2017 at about 9 am when she went near the house of the petitioner to look after the piling work of a water body which was taken out by the local panchyat, she was illegally assaulted by the petitioner. The petitioner also obstructed the labourers of the local panchyat and threw away their articles in the pond. He also outraged modesty of opposite party No.2. The petitioner also snatched away a gold chain and a wallet from the possession of the opposite party No.2. According to the learned Advocate for the petitioner all such allegations are false and concocted. Therefore, Liluah P.S Case No.313 of 2017 and the corresponding to GR Case No.6721 of 2017 is liable to be quashed.

4. It appears from the record that police investigated into Liluah P.S Case No.313 of 2017 and submitted charge-sheet against the petitioner. The case being GR Case No.6721 of 2017 is pending before the learned Chief Judicial Magistrate at Howrah. At this stage I do not find any reason to quash the aforementioned proceeding.

5. In disputably a case and a counter case are pending between the parties. Subsequent case instituted on the basis of FIR lodged by the opposite party No.2 on the basis of an allegation allegedly committed on 19th November, 2017 cannot be held to be a false case on the ground that no such incident took place on 19th November, 2017 as alleged by the

opposite party no.2. Whether any incident happened on 19th November, 2017 or not can only be decided on the basis of the evidence adduced by the witness at the time of trial of GR Case No.6721 of 2017. The petitioner has failed to produce any document to prove that the statement made by the opposite party No.2 in her FIR alleging some act committed by the petitioner on 19th November, 2017 are false and concocted.

6. Therefore, the instant revision is, therefore, summarily dismissed.

(Bibek Chaudhuri, J.)