

05-04-2022
Subha
Item no.64
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 1900 of 2018
with
CRAN 188 of 2020

In the matter of : **Karuna Brata Chatterjee & Ors.**

.....petitioners.

In Re : An application under Section 401 read with Section 482 of
the Code of Criminal Procedure.

Mr. Subrata Bhattacharyya
Ms. Dipa Bhattacharyya

....for the petitioner.

Mr. Uday Shankar Chattopadhyaya
Mr. Santanu Maji
Ms. Singdha Saha
Mr. Pranay Basak
Ms Trisha Rakshit

.....for the O. P. No.2.

Ms. Sujata Das

....for the State.

The present application has been preferred challenging the
proceedings relating to Complaint Case No. C/14 of 2016 pending
before the learned Judicial Magistrate, 7th Court, Asansol under
Sections 120B/34/499/500/501/502 of the Indian Penal Code.

Mr. Bhattacharyya, learned advocate appearing on behalf
of the petitioners submits that the genesis of the present criminal
case arises out of a civil proceeding between the family members.

Learned advocate submits that until and unless the civil case
is decided, the defamation case cannot be proceed against and as
such the continuance of the present proceedings which is an abuse of

the process of the court should be interfered with.

Mr. Chattopadhyaya, learned advocate appearing on behalf of opposite party no. 2 resists such contentions and submits that an offence has been made out and the prosecution must be allowed to adduce its own evidence.

I have considered the contentions advanced by the learned advocate appearing on behalf of the petitioners and the foundation of his contention is based primarily on the issue that until and unless the civil case is concluded, the defamation case cannot be instituted before a criminal court.

I am unable to agree with such contention advanced by the learned advocate for the petitioners in view of the fact that if reckless statements are made which defames a particular person and is within the public domain, the same may be a concern of defamation for which a litigant cannot be debarred from initiation of a criminal case.

However, from the records I find that the learned Magistrate has also issued process under Section 502 of the Indian Penal Code the same has got no applicability so far as the present case is concerned.

Accordingly, the proceedings before the learned trial court would proceed under Sections 120B/34/499/500/501 of the Indian Penal Code.

With the aforesaid observations, the present revisional application being CRR 1900 of 2018 is partly allowed.

All pending applications, if any, in connection with the

revisional application, are consequently disposed of.

Interim order, if any, is hereby vacated.

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

[Tirthankar Ghosh, J]