

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 2332 of 2022

**Tapan Roy Paul & Anr.
Vs.
Jyoti Singh & Ors.**

For the petitioner : Mr. Satrajit Sinha Roy, Adv.

Judgement on : 06.09.2022.

Bibek Chaudhuri, J.

The petitioners have filed the instant criminal revision invoking Section 482 of the Code of Criminal Procedure praying for quashing of Sinthi Police Station Case No. 43/2022 dated 28th June, 2022 under Sections 341/323/354B/509/506/114/379 of the Indian Penal Code corresponding to GR Case No. 1631/2022.

It is submitted by the Learned Advocate for the petitioners that indisputably on 28th June, 2022 over illegal construction and encroachment allegedly made by the father of opposite party no. 1, Jyoti Singh and her other relatives.

Over the said incident a mutual fighting between the parties took place. The petitioners got injured in course of such fighting. On the other hand, the *de facto* complainant also lodged a complaint over the selfsame incident against the petitioners for allegedly causing hurt, outraging modesty, criminal intimidation and so forth against

the petitioners. Police registered both the cases and process of investigation is going on.

At this stage, the petitioners have come forward to quash the written complaint submitted by the opposite party no. 1.

I have already recorded that the alleged incident took place in course of mutual scuffling and fighting between the parties. In criminal proceeding question of illegal encroachment etc. is not the subject-matter. Both the parties have lodged complaint against each other. The investigation is going on. The Learned Advocate for the petitioners refers to a decision of Delhi High Court in the case of **Dr. Karunakar Pata –Vs.- State** reported in **2022 SCC OnLine Del 245**. He specially relies upon paragraphs 10 and 11 of the said report which are quoted below:-

“**10.** The Supreme Court has time and again laid down the parameters that must be adhered to by a High Court while exercising its inherent power under Section 482 Cr.P.C. to quash an FIR. Along with the parameters, it has been consistently observed by the Apex Court that the inherent power in a matter of quashment of FIR has to be exercised sparingly and with caution, and only when such exercise is justified by the test specifically laid down in the provision itself. In this context, it would be pertinent to reproduce Section 482 Cr.P.C.:

“**482.** Saving of inherent powers of High Court. Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

11. In State of ***Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335***, the Supreme Court provided a precise, clearly defined set of inflexible guidelines laying down instance where such an inherent power could be exercised for quashment of an FIR. The relevant portion of that judgment has been reproduced as under:

“**102.** In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myraid kinds of cases wherein such power should be exercised.

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1)

of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offences but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for

wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice."

With the above observation, the Hon'ble Judge in Delhi High Court found that the material-on-record in the case in hand revealed that the contents of the FIR are sketchy in nature and are void of any specific regarding the offences which had allegedly been committed.

On the contrary, on perusal of the FIR submitted by the opposite party no. 1 it is, *prima facie*, ascertained that the opposite party no. 1 has made a detailed report about the incident. She went on alleging further that the petitioners tore her wearing apparel apart in public and thereby outraged her modesty. The FIR does not contain any sketchy, frivolous and vexatious statement for which it is necessary for the Court to call for status report.

When both the cases filed by the petitioners as well as opposite party no. 1 are in the process of investigation, this Court is not in a position to accept the submission made by the Learned Advocate for the petitioners that before taking into the final decision in the instant revision perusal of the case diary is required or status report of the

investigation of the case is also required. In view of such discussion, I do not find any reason to entertain the revisional application and the same is summarily **dismissed**.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 04.