

Form J(1)

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

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

CRR 2383 of 2022

**Sk. Golam Murshed & Ors.
Vs.
The State of West Bengal & Anr.**

For the petitioners : Mr. Niraj Gupta, Adv.

Judgement on : 12.08.2022.

Bibek Chaudhuri, J.

The petitioners have approached this Court under Section 482 of the Code of Criminal Procedure praying for quashing of Paskura Police Station Case No. 556/2021 dated 18th November, 2021 under Sections 448/423/325/354/427/506/34 of the Indian Penal Code and Sections 3(i)(x) of the Scheduled Caste and Scheduled Tribe Act and the consequent charge-sheet dated 24th February, 2022 filed against the petitioners on the following rounds:-

- (i) The FIR was lodged after about 18 days of the alleged occurrence. According to the *de facto* complainant/opposite party no. 2, the incident took place on 31st October, 2021 and she filed a written complaint on 18th November, 2021.

Thus, the prosecution case suffers from delay in filing FIR;

- (ii) It was alleged in the written complaint that the opposite party no. 2 was assaulted by fists and blows and also by 'lathi' by the petitioners but she failed to produce any injury report in support of such allegation;
- (iii) Seizure of wearing apparels after 19 days of the occurrence is shrouded by suspicion;
- (iv) There is no allegation in support of the charge under Section 3(w)(i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act;
- (v) During investigation, the Investigating Officer failed to collect any scheduled caste certificate from the possession of the opposite party no. 2.

Learned Advocate for the petitioners heavily relies on an order passed by the Division Bench of this Court in CRM(A) 361/2022 granting anticipatory bail to the accused persons holding, *inter alia*, that *prima facie* allegation under different provisions of Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not supported by any evidence collected by the Investigating Officer.

Delay in lodging FIR, absence of injury report in support of the allegation of assault allegedly inflicted by the petitioners upon the opposite party no. 2, belated seizure of wearing apparels of the complainant, failure on the part of the Investigating Officer to collect the scheduled caste certificate of

the complainant may be good ground of acquittal of the petitioners after trial. This Court sitting in revision cannot at this stage hold as to whether the prosecution case suffers from exaggeration, falsity or in one word is suspect for delayed FIR. It is for the Trial Court to consider such fact on appreciation of evidence. Similarly in order to prove charge of causing hurt, the injury report is not always necessary. When a case is instituted after 18 days of the incident seizure of wearing apparel on the 19th day by the Investigating Officer cannot be questioned as a ground for quashing the FIR and the charge-sheet.

On perusal of the materials filed along with instant revision I do not find any reason to hold at this stage even *prima facie* that the trial of the case would be an abuse of the process of the Court.

In view of such circumstances, I do not find any merit in the instant revision and accordingly the instant revision is **dismissed** summarily.

(Bibek Chaudhuri, J.)