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C.R.R. No.1973 of 2021

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

Sanjib Das Pattanayak and others
Versus
The State of West Bengal and another

Mr. Debasish Roy,
Mr. Saryati Datta,
Ms. Rajnandini Das.
...for the petitioners.

Ms. Anasuya Sinha,
Mr. Pinak Kumar Mitra.
...for the State.

Supplementary affidavit and affidavit-of-service so filed by the petitioners be kept with the record.

The present revisional application has been preferred challenging the continuance of the proceedings arising out of Contai Police Station Case No.285 of 2020 dated 13.08.2020 under Sections 325/326/34 of the Indian Penal Code pending before the learned Judicial Magistrate, 2nd Court, Contai, Purba Medinipur.

Mr. Debasish Roy, learned advocate appearing for the petitioners submits that the police authorities on conclusion of investigation submitted charge-sheet which did not contain any injury report in spite of charge-sheet being under Sections 325/326/34 of the Indian Penal Code. According to the learned advocate, the manner in which the Investigating Agency has submitted charge-sheet is without any merits in view of the fact the Superintendent of Hospital on being asked in RTI, sent information

that on the particular date no person by the name of Ashok Kumar Das Pattanayak was examined at Contai S.D. Hospital. Additionally, it has been submitted that after receipt of the copies and documents under Section 207 of the Code of Criminal Procedure, the petitioners have approached this Court challenging the continuance of the proceedings in view of the fact that no offence has been made out so far as the present petitioners are concerned.

Mr. Mitra, learned advocate appearing for the State produces the case diary and draws the attention of the Court to the injury reports which are available. Learned advocate for the State has also drawn the attention of the Court to the statement of the witnesses which reflect the complicity of the present petitioners.

I have considered the submissions made on behalf of the petitioners as well as the State and having regard to the materials appearing in the case diary, I am of the opinion that the incorporation of Section 325 or Section 326 of the Indian Penal Code were overzealously incorporated by the Investigating Agency, prima facie materials do not suggest such injury in the case diary, although there are certain simple injuries which are available.

However, having regard to the fact that the consideration of the charges would take place before a First Class Magistrate in respect of both the offences, I grant liberty to the petitioners to take out an application in the nature of Section 239 of the Code of Criminal Procedure, if so advised. Learned Magistrate would dispose of the same in accordance with law at the appropriate stage

of the proceedings prior to a decision on the issue of framing of charges.

With the aforesaid observations, CRR 1973 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)