

01.12.2022
S/L No.21
KS

C.R.R. 2281 of 2021

Gouri Mondal & Ors.

-Vs.-

Anup Mondal & Anr.

Mr. Syed Mosihar Rahman

.....For the Petitioners

Mr. P. K. Datta

Md. Kutubuddin

.....For the State

Mr. Rajdeep Bhattacharya

.....For the O.P. No.1

Learned advocate appearing for the petitioners submits that there has been dispute and differences and the petitioners were assaulted and abused and subsequently, they were foisted with a case which resulted in Shyampur P.S. Case No.287 of 2021 dated 21.07.2021. The investigation of the said case has already been completed. The petitioners further submit that they initiated a case on the self-same incident being, Shyampur P.S. Case No.270 of 2021 dated 08.07.2021 under Sections 447/ 341/ 323/ 324/ 354B/ 506/ 34 of the Indian Penal Code and Section 12 of the POCSO Act. According to the learned advocate the present case was for the purposes of circumventing the proceedings under the POCSO Act which was initiated at the instance of the petitioner no.5. While exercising jurisdiction under Section 482 of the Code of Criminal Procedure without all the documents of both the cases being available, it is not possible for a Court to assess regarding the truth, falsity and the correctness of a proceeding, neither it is possible to assess regarding the counter-case nor a counter-blast. Records

reflect that charge-sheet has already been submitted before the Jurisdictional Court.

Having regard to the fact that there is another case being, Shyampur P.S. Case No.270 of 2021 dated 08.07.2021 which was initiated under the Special Act alleged offence of the Indian Penal Code, I direct the Learned Magistrate to assess regarding the continuance of Shyampur Police Station Case No.287 of 2021 dated 21.07.2021 at the stage of consideration of the charges. Learned Magistrate at the relevant point of time while considering the charges would assess the materials of both the cases, provided the copies to that extent are placed by the present petitioners before the Learned Magistrate. Learned Magistrate would thereafter take into consideration the judgment of the Hon'ble Supreme Court in *Vineet Kumar Vs. State of U.P.* reported in (2017) 13 SCC 369 and in the case of *Ahmad Ali Quraishi Vs. State of U.P.* reported in (2020) 13 SCC 435 and then decide whether the proceedings should continue against the petitioners.

With the aforesaid observations, C.R.R. 2281 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)