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C.R.R.2342 of 2021

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

Sri Aniruddha Sikder
Versus
The State of West Bengal and another

Mr. Debasis Kar,
Mr. Subhojit Chowdhury,
Mr. Arka Tilak Bhadra.
...for the petitioner.

Mr. Imran Ali,
Mr. M.F.A. Begg.
...for the State.

Memo of Evidence so submitted before this Court be kept with the record.

The present revisional application was preferred challenging the continuance of the proceedings arising out of New Barrackpore Police Station Case No.259 of 2020 dated 17.07.2020 wherein the police authorities after completion of investigation submitted charge-sheet under Sections 211/504/505 of the Indian Penal Code and Section 54 of D.M. Act, 2005. The charge-sheet reflects that police authorities relied upon six witnesses including the Executive Officer of New Barrackpore Municipality who lodged the complaint.

Mr. Debasis Kar, learned advocate appearing for the petitioner submits that the continuance of the proceedings are an abuse of the process of the court in view of the fact that if the prosecution is entirely accepted to be true, then also no offence has

been made out, thereby calling the petitioner to face the trial in accordance with law.

Mr. Ali, learned advocate appearing for the State produces the case diary and opposes the contentions advanced by the learned advocate appearing for the petitioner.

I have checked the statements of the four witnesses, namely, Sri Jatindra Bimal Kar (complainant/executive officer), Shyamal Biswas, Sunita Majumder and Sankar Bairagi.

The foundation of the case was on the basis of a complaint dated 16.07.2020 and the gist of the allegations were that the accused being one of the inhabitant of the municipality was continuously trying to make false statement/propaganda against the activities of the municipality and was trying to irritate the public against the municipality by untrue information/statement. For the said purpose, the accused was using social media. The same allegation was reiterated by complainant, Jatindra Bimal Kar. So far as the statement under Section 161 of the Code of Criminal Procedure is concerned, he has also stated that the accused Aniruddha Sikder for past few days was circulating through face book fake information and opinion thereby intimidating the public at large. Such contention was also stated by Sunita Majumder and Sankar Bairagi.

The report under Section 173 of the Code of Criminal Procedure under serial no.11 do not reflect that any properties/articles/documents were recovered/seized by the Investigating Agency in course of the investigation. The case is only

on the basis of statements. If the statements as a whole are taken into account, I do not find that the Investigating Agency has found out any materials as to what was the fake news which was being circulated. The same being absent. Only allegation that fake news being circulated to malign the municipality is not sufficient enough for continuance of the criminal proceedings particularly under the charges of Sections 211/504/505 of the Indian Penal Code and Section 54 of the D.M. Act, 2005. The further continuance of the proceedings accordingly is an abuse of the process of the court.

As such, all further proceedings of New Barrackpore Police Station Case No.259 of 2020 dated 17.07.2020, the charge-sheet filed therein before the learned ACJM, Barrackpore as also orders passed therein are hereby quashed.

Accordingly, CRR 2342 of 2021 is allowed.

Pending application, if any, is 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.)