

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ajoy Kumar Mukherjee

C.R.R. 2339 of 2019

Sarbjit Dutta

-vs-

State of West Bengal & anr.

For the Petitioners : Ms. Minoti Gomes
: Mr. Prodyut Banerjee
: Mr. Pratip Mukherjee

For the State : Md. Anwar Hossain
: Ms. Sreyashee Biswas

Heard on : 08th June, 2022

Judgment on : 09th June, 2022

Ajoy Kumar Mukherjee, J.

1. This revisional application has been preferred for quashing the proceeding being Bidhannagar (East) Police Station Case No.58 of 2014 dated May 4, 2014 under Section 380 of the Indian Penal Code along with quashing of the charge-sheet being Charge-sheet No.44 of 2014 dated August 12, 2014 under Section 380 of the Indian Penal Code which is pending before the learned Additional Chief Judicial Magistrate, Bidhannagar, North 24-Parganas.

2. Ms. Minoti Gomes, learned counsel for the petitioner submits that the petitioner is a businessman by profession and due to business rivalry, false complaints are being lodged against him one after another. All the cases were compromised before this Court in terms of settlement dated May 16, 2013 as

per consent decree dated May 16, 2013 passed by a Division Bench of this Court. But once again the rival group have started disturbing the petitioner due to animosity and filed this false impugned case.

3. The aforesaid Bidhannagar (East) Police Station Case No.58 of 2014 dated May 4, 2014 under Section 380 of the Indian Penal Code originated on the basis of a written complaint lodged by one Nilanjana Dutta, sister-in-law of the present petitioner, alleging that her maid servant informed her that theft occurred at her residence and office premises and silver and gold ornaments are not stolen but two deeds of conveyance, one court document and one duplicate key of a car have been stolen and she suspects that her brother-in-law, Sarbajit Dutta being the present petitioner has committed the said offence.

4. On the basis of said complaint, police started investigation and charge-sheet was submitted on August 12, 2014.

5. Ms. Gomes, learned counsel for the petitioner submits that the entire case is based on suspicion only. The petitioner is a very reputed person and it is unthinkable that the petitioner has stolen a duplicate key of a car or deeds of some landed property.

6. It has been further argued that there has been a long standing business rivalry by and between the parties and police has not made any search or seizure and no stolen article was recovered from the possession of the petitioner during investigation. Without assigning any reasons the impugned charge-sheet has been submitted on irrelevant consideration and as such, the entire proceeding is liable to be quashed.

7. Ld. Counsel for the state Md. Anwar Hossain concedes that beside the statement as recorded by police under Section 161 during investigation, there is no other material in case diary to implicate present petitioner.

8. From the documents available in the record, it appears that during investigation police has recorded statement of three witnesses. Out of which one Surojit Dutta has stated before the police that he believes that his brother Sarbajit Dutta had committed the offence in order to harass him. The other witness Jharna Mondal who is a maid servant has stated that deed in connection with the factory and house property and some documents relating to court case and one key of a car had been stolen. But she does not suspect anyone. The third witness Sangita Mukherjee has also stated that the deed in connection with factory and the house property and also documents relating to court case and one key had been stolen and she does not know any further. The petitioner who is the accused of the case, was also examined by the police under Section 161 of the Code of Criminal Procedure and on examination he stated that after the death of their father, a long standing civil dispute is going on between the two brothers over the division of paternal property and in order to harass him and also in order to defame him in the society, this false theft case has been planted against him. He is not aware as to who had committed such theft, but he assured to help the investigating agency.

9. On perusal of charge-sheet, it appears that the ground for submission of charge-sheet has been noted by the investigating officer as under:-

“During investigation of the case, I visited the PO, prepared rough sketch map of the PO with index in a separate sheet of paper, examined the available witnesses and recorded their statement u/s - 161 CrPC in separate sheets of paper. Then I sent a notice u/s-41(A) CrPC to the FIR named accd person and

he comply the same and recorded his statement u/s-161 CrPC in a separate sheet of paper and he also assured that he always help police for the smooth investigation of this case. Thereafter the said FIR named accd person was filed u/s-438 Cr.P.C. before the Ld Court Barasat, North 24 Pgs and surrender before the Ld Court Barasat and the Ld Court Barasat accepted his anticipatory bail, but the said accd person could not comply u/s-437 CrPC as yet.

During investigation, a prima facie charge u/s-380 IPC has been well established against FIR named accd person (as noted in CO/No.12) in this case.”

10. It is needless to say that the aforesaid finding that has come up during investigation does not suggest any ground for submission of charge-sheet against the accused person and the charge-sheet has been submitted mechanically before the Court, in spite of the fact that there is no material to submit final report in the form of charge sheet against the present petitioner implicating him in a case of theft.

11. In the above scenario, if the present proceeding is allowed to be continued, that will be purely an abuse of process of Court and as such, this is a fit case where invoking power under Section 482 of the Code of Criminal Procedure, the entire proceeding is required to be quashed.

12. In view of the above the entire proceeding being Bidhannagar (East) Police Station Case No.58 of 2014 dated May 4, 2014 under Section 380 of the Indian Penal Code along with the charge-sheet being Charge-sheet No.44 of 2014 dated August 12, 2014 under Section 380 of the Indian Penal Code pending before the learned Additional Chief Judicial Magistrate, Bidhannagar, North 24-Parganas is hereby quashed.

CRR 2339 of 2019 is accordingly disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(AJOY KUMAR MUKHERJEE, J.)