

30.03.2022

Item No.70
Ct.No.34
dc.

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

C.R.R. 2953 of 2019

**Smt. Champarani Basu @ Champa Basu & Ors.
versus
Mihirlal Biswas**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973.

Mr. Uday Sankar Chattopadhyay,
Mr. Suman Sankar Chattopadhyay,
Mr. Santanu Maji,
Ms. Snigdha Saha,
Ms. Trisha Rakshit ... For the Petitioners.

Mr. Aniket Mitra ... For the Opposite Party.

Leave is granted to the learned advocate for the petitioner to amend the cause title.

The learned advocate for the petitioners submits that the allegation made in the petition of complaint, *prima facie*, fails to make out any allegation for continuance of the instant proceeding and the present proceeding was instituted because of private and personal grudge for settling scores in view of the fact that there are various civil disputes pending amongst the parties. Learned advocate further submits that there are issues so far as the witness who was produced in support of the present case and to that extent, proceeding under Section 340 of the Code of Criminal Procedure has been initiated. Additionally, he submits that the complaint accepted in its entirety fails to make out any offence thereby calling upon the present petitioners to face the ordeal of trial.

Mr. Aniket Mitra, learned advocate appearing for the opposite party submits that there are two parts of the complaint. The first part relates to the pendency of the cases *inter se* between the parties and the second part relates to the manner in which the complainant has been treated by the society pursuant to the criminal case.

I have considered the submissions advanced by the learned advocate for the respective parties and I find from the records of the case that the process was issued mechanically without appreciating the contents therein. Further, the examination of both Mihirlal Biswas and Madhusudan Mondal do not inspire complete confidence for asking the accused persons to face the ordeal of trial. Mr. Mitra, learned advocate for the opposite party interrupts at this stage and submits that there are certain recordings made in the examination under Section 200 of the Code of Criminal Procedure which are disputed.

In view of the submissions advanced by the learned advocates for the petitioner as also the opposite party and on assessment of the materials placed before this Court, I am of the opinion that the issuance of process against all the accused persons was in a casual manner. Accordingly, the examination of the witnesses under Section 200 of the Code of Criminal Procedure as also the issuance of process under Section 204 of the Code of Criminal Procedure is hereby quashed.

The learned Magistrate would consider the case from the stage wherein the records were transmitted after the

cognizance was taken by the learned ACJM. The learned Magistrate would freshly examine under Section 200 of the Code of Criminal Procedure and thereafter decide whether process should be issued under Section 204 of the Code of Criminal Procedure or the complaint should be dropped under Section 203 of the Code of Criminal Procedure.

With the aforesaid observations, the revisional application being CRR 2953 of 2019 is partly allowed.

Interim order, if any, is hereby vacated.

All pending connected 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 with all requisite formalities.

(Tirthankar Ghosh, J.)