

**IN THE HIGH COURT AT CALCUTTA
Criminal Appellate Jurisdiction
Appellate Side**

Present: - Hon'ble Mr. Justice Subhendu Samanta.

**CRR 3844 of 2017
Aqui Nawar Alam & Anr.
Vs.
State of West Bengal & Anr.**

For the petitioner : Mr. Musharraff Hussain

For the State : Mr. Binoy Kumar Panda,

Judgment on : 29-11-2022

Subhendu Samanta, J.

This is an application under Section 482 of the Code of Criminal Procedure for quashing of Ekbalpore P.S. F.I.R. No.515 dated 27.9.2014 under Sections 295/297/323/324/325/327/379/380/384/385/447 of the Indian Penal Code and also charge-sheet No.198/15 dated 28.6.2015 under Sections 447/511/34 IPC.

The brief fact of the case is that the de facto complainant filed an application on 24.9.2014 before the learned Chief Judicial Magistrate at Alipore under section 156(3) of the Code of Criminal Procedure where in he alleged that the present petitioners along with five other accused on 18.9.2014 at about 3.30 P.M. jointly came a Madrasah School at 39, Mominpore Road, Police Station Ekbalpore, Kolkata-700023, with iron rod, lathi, hammer etc. and broken the padlock of the main gate forcibly which

was fixed with collapsible gate of the said school cum Hostel and entered into the said Madrasah and ransacked the properties of the said orphan school and slapped randomly to the different orphan students and the boarders of the school cum Hostel.

It has also been alleged in the said FIR that the accused persons also physically assaulted the gate keeper with fist and blows and lastly snatched the keys of the gate from the gate keeper and entered into the school; they snatched the important papers and documents of the Madrasah and forcibly took cash from the school locker.

The investigation of the police ended in charge sheet. In the final report of the police, the name of the present petitioner including others are transpired as an accused and they sent up for trial as prima facie case against them has been made out.

The sole grounds of discharge before this Court is that the petitioners were not present at the alleged place of occurrence. They were present at their respective offices on the relevant day. Attendance registrar along with certificate of the concerned appointing authority is annexed with this revisional application.

Learned advocate appearing on behalf of the petitioner submitted that there were long standing dispute between the group of present petitioners and the group of de facto complainant in respect of management of the said Madrasah. The group of de facto complainant to fulfil their ulterior motive falsely entangled the present petitioners and others in the instant criminal case. He argued that no such incident happened on the alleged date of occurrence, if at all occurred the present petitioners were not present at the

time. He further argued that the present petitioners were falsely implicated in this case. The attendance sheet as well as the certificate of the appointing authority filed with this revisional application would show that the fact of FIR is false and fabricated. He further argued that at this juncture, the FIR as well as perfunctory charge sheet against the present petitioners is liable to be quashed.

Learned advocate appearing on behalf of State raised strong objection and submitted that after completion of investigation, police has submitted charge sheet. After the prima facie involvement of the present petitioners are found the police has mentioned their name in the charge-sheet. He again argued that there are several materials in the case diary which will prove that the present petitioners were all along present at the time of alleged occurrence.

Heard the learned advocate for the State and perused the Case Diary. Perused the document; such as document of attendance sheet/attendance registrar, along with instant criminal revisional application.

The investigation of the police is ended in charge-sheet against all the F.I.R. named accused persons including the present petitioners. During the course of investigation, police recorded statements of available witnesses including the present petitioners. The neighbouring witness in their statement stated the name of the present petitioners to be present at the place of occurrence. The statement of present petitioners along with other accused persons were also recorded by the police during the course of investigation and they being made a part of the Case Diary.

Both the petitioners stated before the I.O. that they were present at the

time of the alleged occurrence.

The petitioners' version before the revisional Court is appears to be contradictory to their earlier statements before the police.

At this juncture, this revisional Court reasonably cannot disbelieve police report submitted before the Learned Magistrate under Section 173 of the Code of Criminal Procedure.

Considering the Case Diary and the charge-sheet of this case, I find the ground for quashing the said F.I.R. and charge-sheet as alleged by the present petitioners is not tenable. Thus, I find no merit to entertain the revisional application.

Accordingly, CRR 3844 of 2017 is dismissed.

Connected pending applications, if any, are consequently disposed of.

Any order of stay passing by this Court during the pendency of the instant revisional application is hereby also vacated.

Let of this order be sent down to the Learned Court for his information and necessary action.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Subhendu Samanta, J.)