

**21.06.2022**

**CRR 4153 of 2012**

**Ashok Kumar Das & Ors.**

**Vs.**

**The State of West Bengal**

**Mr. Imtiaz Ahmed,  
Mr. Ghazala Firdous,  
Mr. Sk. Saidullah,  
Mr. Shibasish Banerjee.**

**... for the Petitioners**

**Mr. Madhu Sudan Sur,  
Mr. Dipankar Paramanick.**

**... for the State**

The present application is filed under Section 482 of the Code of Criminal Procedure, 1973 praying for quashing of the proceedings of GR Case No. 506 of 2011 pending before the Additional Chief Judicial Magistrate, Barrackpore, North 24 Parganas connected with Barrackpore Police Station Case No.14 of 2011 dated 11.02.2011 under Section 447/506/34 of the Indian Penal Code.

The Petitioner No. 1 and 2 are husband and wife whereas the Petitioner No. 3 is their son. The Petitioner No. 1 was a State Government Employee working as Health Assistant at the office of Chief Medical Officer of Health, Barrackpore, North 24 Parganas at the material point of time of filing of the present application. The Petitioner No. 2 is housewife and Petitioner No. 3, being a graduate in commerce, was in search of job at the material point of time of filing of the

Petition. It is alleged against the Petitioners that on 5<sup>th</sup> February, 2012 the Petitioners went to the Administrative Building Barrackpore to submit forms for modification/alteration of their election identity card. The Petitioners along with other accused persons committed offences of criminal trespass into the government premises therein and also committed offences of criminal intimidation to government employees present in that government office. The First Information Report dated 07.02.2011 discloses that because of “tremendous pressure criminal intimidation and coercion”, the Deputy Magistrate cum Deputy Collector was compelled to receive the applications of the accused persons.

On the basis of written complaint dated 07.02.2011 made by Sub-Divisional Officer (S.D.O), Barrackpore, Barrackpore Police Station Case No. 14 of 2011 dated 11.02.2011 was registered followed by investigation. On conclusion of that investigation, charge sheet was filed, being Charge Sheet No. 42 dated 31.05.2011 under Section 447/506/34 of the Indian Penal Code against the present Petitioners along with the other accused persons. Cognizance was taken by the Additional Chief Judicial Magistrate, Barrackpore.

It is argued by Mr. Ahmed appearing for the Petitioners, that the present Petitioners are falsely implicated in this case. Documents prima facie show that the allegations as well as the charges are false and frivolous. Inviting attention to the

report of the Deputy Magistrate and Deputy Collector, Barrackpore addressed to the Sub-Divisional Officer of Barrackpore, it is submitted that although it is in the report that nearly 200 people assembled in front of the main entrance of the office building, the first information report contains names of 56 persons only. Even if, the allegations are relied upon on the face value, no materials are there to implicate the present Petitioners in the alleged offences. Materials on record do not disclose any of the ingredients of the offences alleged. The accused persons including the Petitioners went to the Administrative Building only to submit forms for correction of electoral list, as appears from the written complaint. He further stated, inviting attention to the acknowledgement part of the application forms, that the said applications were submitted on 17.02.2011 at 11:30 A.M. and not on 05.02.2011 as alleged which itself rules out presence of the Petitioners in the place of occurrence as well as their involvement in the offence alleged. According to the Mr. Ahmed, it is a fit case where High Court can exercise its jurisdiction under Section 482 of the Code of Criminal Procedure to quash the proceeding which is a false and privilege proceeding.

Per contra, Mr. Sur, appearing for the State submitted that charge sheet was filed long ago. After lapse of more than ten years, the matter has lost its' relevance. However, admits contradictions of the documents.

Supplementary affidavit, filed on behalf of the Petitioners discloses death of the Petitioner No. 1 on 03.09.2016. On death, the prosecution abates, therefore, against the Petitioner No. 1.

The written complaint dated 07.02.2011 discloses that among others, the present Petitioners were there in the Administrative Building on 05.02.2011 and intimidated, coerced and compelled the Deputy Magistrate cum Deputy Collector to accept the application forms, whereas the acknowledgement part shows that the said application forms were received on 17.02.2011 at 11:30 a.m., contradicting and negating the contents of the written complaint as well as the F.I.R. Prima facie, therefore, the F.I.R. as well as the written complaint are unreliable and cannot be taken as true. Although statement of witness as well as the written complaint discloses that application was received on 05.02.2011 under pressure prima facie materials are contradictory. Acknowledgement parts rules out the allegations that the Petitioners were present at the place of occurrence on the alleged date and they committed the alleged offence.

On hearing both the parties and on perusal of materials on record, I am of the considered opinion that it is right case where this Court should exercise jurisdiction under Section 482 of the Code of Criminal Procedure. Accordingly the proceeding, namely, GR Case No. 506 of 2011 pending before the Additional Chief Judicial Magistrate, Barrackpore

connected to Barrackpore Police Station, Case No. 14 of 2011 dated 10.02.2011 under Section 447/506/34 of the Indian Penal Code stands quashed against the present Petitioners.

A copy of this order be sent to the concerned Court immediately.

Parties to act on server copy of this order.

The instant matter stands disposed of accordingly.

**(Sugato Majumdar, J.)**