

HIGH COURT AT CALCUTTA
In the Circuit Bench At Jalpaiguri
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 622 of 2022

Arabinda Roy

Versus

State of West Bengal & Ors.

For the petitioner : Mr. Narendra Nath Das
: Mr. Pratyush Adhikary
: Mr. Ananta Deb Adhikary
: Mr. Pragyaadip Roy Basunia
: Ms. Binapani Singha

For the State : Mr. Hirak Barman
: Mr. Momenur Rahaman

Heard on : 19.04.2022

Judgment on : 19.04.2022

JAY SENGUPTA, J:

Although the present application was filed for quashing of the four FIRs in question, learned counsel appearing on behalf of the petitioner submits that since the

four FIRs had been lodged over the same incident, the proceedings arising out of the three subsequent FIRs need to be quashed and the said complaints may be treated as subsequent statements in relation to the first FIR.

A report earlier filed on behalf of the State is taken on record.

Learned counsel appearing on behalf of the petitioner further submits as follows. The petitioner is an accused in this case. It is alleged in the First Information Reports in question that on 07.12.2018 two buses of North Bengal State Transport Corporation bearing no. WB63A 0644 and WB63A 0093 were plying on the road and at Salbari, the said buses were attacked by the mob comprising of 500-600 miscreants under the leadership of particular political organization. The vehicles were damaged. When police officials came to intervene, they were also assaulted by the miscreants. Four different individuals filed four separate FIRs before the police over the same incident. This led to the registration of the following cases.

- (i) Dhupguri PS Case No. 422 of 2018 dated 07.12.2018 u/s 147/148/149/323/325/326/353/307/427/ r/w Sec 9 of WBMPO Act & Sec 3 of PDPP Act.

- (ii) Dhupguri PS Case No. 423 of 2018 dated 07.12.2018 u/s 147/ 148/ 149/ 323/ 325/ 326/353/307/427/ r/w Sec 9 of WBMPO Act & Sec 3 of PDPP Act.
- (iii) Dhupguri PS Case No. 424 of 2018 dated 07.12.2018 u/s 147/ 148/ 149/ 323/ 325/ 326/307 IPC r/w Sec 9 of WBMPO Act &
- (iv) Dhupguri PS Case No. 425 of 2018 dated 07.12.2018 u/s 147/ 148/ 149/ 323/ 324/ 325/326/332/333/353/336/186/307/109/ 114/120B IPC r/w Sec 25/27 Arms Act, 9 WBMPO Act, 3 of PDPP Act.

Although the sections imputed were different in some cases, the facts of the cases remained the same. In the interest of justice, the four cases should be clubbed together and be treated as one. The subsequent First Information Reports may be treated as subsequent statements of witnesses made in respect of the first case. In effect, the three subsequent cases cannot be sustained in the eye of law and therefore, need to be quashed.

Learned counsel appearing on behalf of the State relies on the report filed and submits as follows. Although the report concludes that the incidents occurred at

different times, it is apparent that four different cases were started substantially on the self-same allegations. Only the de-facto complainants were different. Charge-sheets were submitted in all the cases. In the event the three subsequent cases are quashed, the materials collected during investigation of the same cannot get washed away. They should form part of the first case.

I have heard the submissions of the learned counsels appearing on behalf of the petitioner and the State and have perused the writ petition and the report filed on behalf of the State.

It appears that in the present case four separate FIRs were lodged on the self-same allegations. Alleged incidents took place during the same transaction. Only the informants were different. Charge-sheets were filed in all the four cases. However, the offending provisions imputed differed a little in these cases.

In **Amitbhai Anil Chandra Shah vs. CBI & anr., (2013) 6 SCC 348**, the Hon'ble Apex Court, inter alia, held that in the event two cases are filed over the self-same incident, only the first case could be sustained and the charge-sheet in the second case can be treated as a supplementary charge-sheet in the first case.

In view of the above and in the interest of justice, the following directions are passed:-

- (a) The FIRs in the subsequent cases namely, Dhupguri PS Case No. 423 of 2018 dated 07.12.2018, Dhupguri PS Case No. 424 of 2018 dated 07.12.2018, Dhupguri PS Case No. 425 of 2018 dated 07.12.2018 shall be treated as subsequent statements of the respective informants/witnesses in respect of the first case i.e., in Dhupguri PS Case No. 422 of 2018.
- (b) The materials collected during investigation of the three subsequent cases including charge-sheets filed therein shall form part of the first case. The said subsequent charge sheets shall be treated as supplementary charge sheets in the first case.
- (c) It is quite obvious that all the accused as named in the charge-sheets in the said four cases shall be named as accused in respect of the first case.
- (d) At this stage, all the provisions of law under which charge sheets were submitted in the four cases would be retained as alleged charges in the first case.

- (e) In effect, the proceedings in the subsequent cases being Dhupguri PS Case No. 423 of 2018 dated 07.12.2018, Dhupguri PS Case No. 424 of 2018 dated 07.12.2018, Dhupguri PS Case No. 425 of 2018 dated 07.12.2018 shall be dropped once the preceding directions are complied with.
- (f) If any of the accused had been granted bail in connection with any of the four cases, it shall be deemed that he had been granted bail in respect of the first/resultant case.

With these observations, the writ petition is disposed of.

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.

(Jay Sengupta, J)