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08.09.2022
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IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION

C.R.R 112 of 2021

In Re: An application under Section 482 of the Code of Criminal
Procedure, 1973;

Naresh Sidhya and another
Versus
The State of West Bengal and another

Mr. Jaydeep Kanta Bhowmik.
...for the petitioners.

Mr. Aditi Shankar Chakraborty,
Mr. Nilay Chakraborty.
...for the State.

The present revisional application was preferred in
respect of New Jalpaiguri Police Station Case No.545 of 2021
dated 04.06.2021 under Sections 188/447/341/506/34 of the
Indian Penal Code.

The petitioners challenged the said FIR on the basis of
certain documents to deny the allegations made in the letter of
complaint addressed to the Officer-in-Charge of New Jalpaiguri
Police Station.

The subject matter of allegations relate to forceful
entry in the complainant's properties, threat and wrongful
restraint. So far as the issues are concerned, I find a major part
of the issues relate to question of facts which requires

investigation and the Investigating Authority would come to a conclusion. However, it would be pertinent to state that so far as the provisions of Section 188 of the Indian Penal Code, the same is barred under Section 195 of the Code of Criminal Procedure for investigation by way of an FIR.

Having regard to the nature of the complaint and on the basis of which FIR has been instituted, I quash the proceeding to the limited extent of the applicability of Section 188 of the Indian Penal Code. The investigation would continue in relation to the alleged offences under Sections 447/341/506/34 of the Indian Penal Code as was registered by the police authorities.

Needles to state that the police authorities would arrive at its independent finding at the time of submitting report under Section 173 of the Code of Criminal Procedure if they are able to find an offence.

So far as the deletion of Section 188 of the Indian Penal Code is concerned, the same is settled proposition of law and, as such, this Court had no other except to quash applicability of said Section in the FIR.

With the aforesaid observations, CRR 112 of 2021 is partly allowed.

Pending application, if any, is consequently disposed of.

All parties shall act on the server copy of this order
duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

