

14.09.2022

Item No.38

Ct.No.2

dc.

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

C.R.R. 141 of 2022

with

CRAN 1 of 2022

**Nabaratna @ Navratan Lakhota
versus
State of West Bengal & Anr.**

In Re: An Application under Section 401 read with Section 482 of the Code of Criminal Procedure.

Ms. Rima Sarkar ... For the Petitioner.

Mr. Aditi Shankar Chakraborty,
Mr. Ujjwal Luksom ... For the State.

Ms. Madhushri Dutta,
Mr. Debasish Mukhopadhyay,
Mr. Anirban Banerjee ... For the Opposite Party No.2.

Supplementary affidavit filed on behalf of the petitioner
be kept on record.

The subject-matter of this revisional application relates
to quashing of the charge-sheet filed in connection with
Bhaktinagar Police Station Case No. 1055 of 2013 under
Sections 447/323 of the Indian Penal Code read with
Sections 3(X)(XI) of the Scheduled Castes and the Scheduled
Tribes (Prevention of Atrocities) Act, 1989.

The petitioner approached this Court after charge-sheet
being submitted, cognizance being taken and the copies being
supplied.

Learned advocate appearing for the petitioner repeatedly harped on the issue that the Sections for which the petitioner has been implicated or in respect of which the police authorities have charged the petitioner, are not made out from the documents relied upon by the prosecution itself. It has also been submitted that the petitioner happens to be the owner of the land who has been victimized by malafidely invoking the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Learned advocate has also drawn the attention of this Court to the statement of the witnesses under Section 161 of the Code of Criminal Procedure and tried to compare with the relevant Sections for which the petitioner has been charged.

Learned advocate appearing for the private opposite party no.2 contests the contention advanced on behalf of the petitioner and submits that the petitioner intended to grab the property of the opposite party no.2 and as the police authorities after conducting an exhaustive investigation, has arrived at a finding, no interference is called for by this Court at this stage.

Mr. Luksom, learned advocate appearing for the State has submitted that a case has already been made out as the facts taken as a whole, reveal deprivation of depressed classes in the society.

I have considered the submissions of the learned advocates for the petitioner, the opposite party no.2 as well as the State. So far as the applicability of the offences under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is concerned, there may or may not be exact incorporation of factual circumstances. However, the totality of the case reveals that the property allegedly belongs to the opposite party no.2 and his enjoyment was disturbed at the instance of the petitioner, at least that is the prosecution case. To comment at this stage, whether Section 3(1)(X) or Section 3(1)(XI) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 would apply is a premature approach. It has been informed that the learned Special Court is at the stage of consideration of charges. Any opinion in respect of the alleged offences under the Indian Penal Code or the relevant provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is bound to prejudice either the State or the petitioner. As such, this Court restrains to comment regarding the applicability or non-applicability of the Sections.

The petitioner and the State would be at liberty to canvass the points at the stage of consideration of charge before the learned Special Court regarding the applicability of

the Sections. No interference is called for by this Court at this stage.

With the aforesaid observations, the revisional application being CRR 141 of 2022 along with the connected application is disposed of.

Needless to state that this Court has not opined regarding the factual materials existing or non-existing for the purpose of progress of the case, but has restricted itself to facts which were required for disposal of the present revisional application.

The learned Special Court/Trial Court will independently exercise its discretion while coming to its conclusion whether charge should be framed or should not be framed.

Interim order, if any, is hereby vacated.

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.)