

20.01. 2023
item No.21
n.b.
ct. no. 551

CRR 5 of 2018

Subit Kumar Mandal
Vs.
State of West Bengal & Anr.

Mr. Deborshi Dhar,
.....For the Petitioner.
Ms. Faria Hossain,
Ms. Baisali Basu
.... For the State.

This is an application under Section 482 of the Code of Criminal Procedure for quashing of the criminal proceeding being, Garfa Police Station Case No.220 of 2012 dated June 15, 2012 under Sections 279 and 427 of the Indian Penal Code and Section 11(1) of the Prevention of Cruelty of Animals Act now pending before the learned Judicial Magistrate 6th Judicial Magistrate, Alipore, South 24 Parganas.

The brief fact of the case is that the car of private opposite party no.2 dashed the petitioner while the petitioner's car was standing in a single. On such issue, the hot altercation started between the drivers of the two cars. Ultimately, they reached the concerned police Station and case was initiated. The investigation of the police ended in charge-sheet under Sections 279/427 of the Indian Penal Code against the petitioner. Hence, this revisional application.

Learned advocate appearing on behalf of the petitioner submitted before this Court that the instant proceeding against the

present petitioner is liable to be quashed. He again pointed out the ingredients under Sections 279 and 427 of the Indian Penal Code is not applicable in this case. He again submits from the facts and circumstances of the case and from the statement of available witnesses, the criminal intention of the present petitioner cannot be proved. Thus, he prayed for quashing of the proceeding.

Learned advocate appearing on behalf of the State submits that the police has conducted the investigation and during the course of investigation, the witnesses were examined and their statements were recorded under Section 161 of the Code of Criminal Procedure. It can be submitted that there are no injury report to prove that the de facto complainant is an injured. The copy of Case Diary is produced.

Heard the learned advocates. I have perused the Case Diary and also perused the charge sheet. In considering the statement of available witnesses, it appears to me that there are some disputes arose between the two drivers. While one driver dashed behind the other driver. Both of the cars were not running in a speed which may endanger to the human life.

Considering the facts and circumstances and considers the materials on record, Case Dairy and the statement of available witnesses, I find the offence punishable under Sections 279/427 of the IPC is not substantiated to prove the prima facie case of the alleged offence by the submission of the charge-sheet. Further proceeding of the Criminal case would be the abuse of process of the Court.

Accordingly, there are merits to entertain the criminal revisional application. In result thereof, the instant revisional application is allowed.

The proceeding including the charge-sheet submitted before the jurisdictional Magistrate in connection with Garfa Police Station Case No.220 of 2012 dated June 5, 2012 under Sections 279 and 427 of the Indian Penal Code and charge sheet being, C.S. No.80 of 2013 dated February 21, 2013 corresponding to A.C..G.R Case No.7024 of 2012 pending before the Learned Court of 6th Judicial Magistrate, Alipore, South 24 Parganas is hereby quashed.

The criminal revisional application being, CRR 5 of 2018 is disposed of.

All pending connected application is also disposed of.

Any order of stay passed by this Court during pendency of the criminal revisional application also stands vacated.

Lower Court Records, if any, be sent back to the learned Court below.

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

(Subhendu Samanta, J.)