

**IN THE HIGH COURT AT CALCUTTA**

**(Criminal Revisional Jurisdiction)**

**APPELLATE SIDE**

**Present:**

**The Hon'ble Justice Shampa Dutt (Paul)**

**CRR 141 of 2020**

**Nirmal Pal & Ors.**

**Vs**

**The State of West Bengal & Anr.**

**For the Petitioners** : Mr. Malay Bhattacharya,  
Ms. Sudipa Sengupta.

**For the State** : Mr. P. K. Dutta,  
Md. Kutubuddin.

**For the Opposite Party No. 2** : Mr. Avinaba Patra,  
Mr. Partha Sarathi Das.

Heard on : 06.02.2023

Judgment on : 27.02.2023

**Shampa Dutt (Paul), J.:**

The present revision has been preferred praying for quashing of the proceeding being Misc. Case No. 32 of 2019 in G.R. Case No. 150 of 2019 arising out of Nabadwip Police Station Case No. 277 of 2019 dated 05.07.2019 under Sections 323/506/120B/34 of the Indian Penal Code, now pending before the Learned Judicial Magistrate, 1<sup>st</sup> Class, Nabadwip, Nadia.

The petitioner's case is that the Opposite Party no. 2 had lodged a written complaint under Section 156(3) before the Learned Judicial Magistrate, 1<sup>st</sup> Class, Nabadwip, and pursuant to an order dated 12.06.2019 the said complaint was treated as First Information Report and accordingly Nabadwip Police Station Case No. 277 of 2019 dated 05.07.2019 under Sections 323/307/504/506/120B of the Indian Penal Code was started.

It has been alleged in the said written complaint that the complainant is a widow and is residing with her daughter in the property which she inherited from her father. The petitioners being the accused persons are her neighbors and in order to grab her land entered her house and used slang languages and when the complainant opposed to such behavior, the accused persons beat her and upon

hearing the hue and cry, when the local people came to rescue her, the accused persons fled away.

The petitioner's case is that the allegations against them is totally false. That the story which has been made out by the complainant in her written complaint is baseless and the same has been initiated just to harass the petitioners and moreover the allegations leveled against the petitioners is civil in nature and as a result the Sections of Indian Penal Code does not apply herein. In the instant case the investigating officer without considering the contention of the petitioners as well as the statements recorded under Section 161 of the Cr.P.C., investigated the case in a stereotype manner and no overt act has been mentioned in the Charge Sheet which has been filed before the Learned Trial Court vide Charge Sheet No. 382/19 dated 29.09.2019 under Sections 323/506/120B/34 of the Indian Penal Code and thus the order taking cognizance of the Charge Sheet and subsequent proceeding is liable to be quashed and set aside.

The complainant herein again on false pretext lodged a complaint against the petitioners on the self same grounds before the Court of Learned S.D.E.M of Sadar, Krishnanagar, being NGR Case no. 2144 of 2019 under Section – 107/116(3) of Code of Criminal Procedure vide Nabadwip Police Station NCR No. 515/2019 dated 19.09.2019.

**Mr. Malay Bhattacharya, learned counsel for the petitioners**

has submitted that the Judicial Magistrate has failed to apply his judicial mind, while taking cognizance of the matter against the petitioners.

The impugned proceeding is a glaring example of an abuse of the process of law and if it is allowed to remain operative without quashing or setting aside of all the orders as against the petitioner it will be violative of the principles of natural justice.

**Mr. Avinaba Patra, learned counsel for the opposite party**

**No. 2** has submitted that the case as made out in the written complaint and the materials in the case diary clearly make out a prima facie case against the accused persons and the investigating agency has rightly submitted the Charge Sheet. Thus the revisional application is liable to be dismissed.

**Mr. P. K. Dutta, learned counsel for the State** has placed the case diary.

On hearing the learned counsels for all the parties and materials on record including the case diary, it appears that the dispute between the parties allegedly relates to the land on which the complainant stays. Though there is a petition with 250 signatories stating that the petitioners are innocent and that the complainant is the person who is wrong, **this court cannot ignore the medical documents in the case**

**diary which prima facie makes out a case that the complainant Kajal Pal was assaulted.**

**This thus appears to be a fit case to be sent for mediation. Accordingly the matter is remitted to the Learned Magistrate with the direction to refer the matter for mediation to the concerned district legal services authority and make all endeavor to have the matter settled preferably within a month at that level, as it is a dispute between co villagers and the nature of dispute is such where a mediation is the best answer.**

**CRR 141 of 2020 accordingly disposed of.**

There will be no order as to costs.

All connected Application stand disposed of.

Interim order if any stands vacated.

Copy of this judgment be sent to the learned Trial Court forthwith for necessary compliance.

Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

**(Shampa Dutt (Paul), J.)**