

IN THE HIGH COURT AT CALCUTTA**Criminal Revisional Jurisdiction****Present: - Hon'ble Mr. Justice Subhendu Samanta.****C.R.R. No. – 59 of 2018****With****IA No. CRAN 9 of 2022****+****CRAN 10 of 2023****IN THE MATTER OF****Rajiv Kumar Sing alias Chotu Sing .****Vs.****The State of West Bengal**

**For the Petitioners : Mr. Rajdeep Mazumder Adv.,
Mr. Moyukh Mukherjee, Adv.,
Mr. Pritam Roy, Adv.,
Mr. Abhijit Singh, Adv.,
Mr. Sarthak Mondal, Adv.**

**For the State : Mr. Narayan Prasad Agarwala, Adv.,
Mr. Pratick Bose, Adv.**

Judgment on : 06.09.2023

Subhendu Samanta, J.

This Criminal Revision u/s 482 of the Code of Criminal Procedure for quashing of a proceeding of being ACGR No. 10142 of 2012 arising out of Pragati Maydan Police Station Case No. 214 dated 23.08.2012 u/s 306/120B IPC now

pending before the Court of Learned Additional Judicial Magistrate Alipur.

The brief fact of the case is that the opposite party No. 2 has lodged a written complaint on 23rd August 2012 with the Officer-In- Charge Pragati Maydan Police Station Calcutta. Contending inter alia that her husband Jitendralal Banerjee was found hanging in her son's bed room at around 03:30 p.m. on 22nd August 2012. Her husband was rushed to Colombia Asia Hospital and was declared dead. It is the specific allegation by the de-facto complainant that the present petitioner along with other 04 persons since last few days had been continuously harassing, threatening and instigating her husband in public and person as well over telephone which resulted in such drastic acts. She came to know about the incident from her husband and found her husband since last few days that he was under several mental trauma. On the basis of the said petition of complaint the Pragati Maydan P.S. Case No. 10142 dated 23.08.2012 u/s 306/120B IPC was started and police took up the investigation. The instant criminal revision has been preferred by the present petitioner for quashing the entire criminal proceedings.

Learned Advocate for the petitioner submits that the present petitioner is completely innocent and in no way

connected to the commission of offence as alleged in the FIR. The instant proceeding is palpably frivolous and was initiated only with a view to harass and intimidated the petitioner herein. The opposite party No. 2 has initiated the proceeding on the basis of concocted story and the FIR suffers from intrinsic hallows. It is the argument of the Learned Advocate for the petitioner that the instant proceeding is manifestly attended with mala fide and the same is instituted in order to spite the present petitioner maliciously.

Learned Advocate for the petitioner further argued that the offence punishable u/s 306 IPC regarding the abatement of suicide is missing in the present FIR. He cited the view of the Hon'ble Supreme Court passed in **State of Kerala and Ors. Vs. S. Unikrishnan Naiar and Ors., (2015) 9 SCC 639**. He argued that in the case of **Unikrishnan** the Hon'ble Supreme Court has quashed an FIR registered u/s 306 IPC with some of observations. He submits that the instant criminal revision is liable to be allowed by quashing Criminal Proceeding registered against him.

Learned Advocate for the state submits that after intimation of such FIR the Pragati Maydan P.S Case No. 214 of 2012 dated 23.08.2012 u/s 306/120B IPC was initiated the police took up the investigation. During the course of

investigation police has examined the available witnesses and recorded their statements u/s 161 Cr.P.C. after conclusion of investigation the police is of opinion the prima facie case against the present petitioner has been sufficiently made out and submitted a charge sheet. He argued that there are sufficient materials against the present petitioner to proceed in the criminal trial. At this juncture. The instant criminal proceedings cannot be quashed.

He placed the CD.

Heard the Learned Advocates. Perused the CD.

The instant case was initiated on the basis of a petition of complaint initiated by the present opposite party No. 2. Police has conducted the investigation and submitted a charge sheet against all 05 accused persons including the present petitioner. The 04 other accused persons of this case are on court bail but the present petitions is cited as absconder.

On perusal of the CD it appears to me that the available witnesses is stated the name of the present petitioner to be involved in the alleged offence. Thus there are prima facie materials standing against the present petitioner to proceed in the criminal trial.

I have gone through the judgment of Hon'ble Apex Court passed in **S. Unikrishnan**. In **S. Unikrishnan**, under the

direction of High Court the investigation of CBI was started for custodial death headed by one Haridath (Chief Investigating Officer). During the investigation of the custodial death case, Haridath committed suicide with a suicide note alleging two of his team mate including CJM and one advocate compelled him to do everything and cheating and putting him in deep trouble. On the basis of such suicide note and FIR was registered u/s 306 and other corresponding Sections of IPC. The Hon'ble High Court quashed the same u/s 482 Cr.P.C. the Hon'ble Supreme Court also affirmed the order of High Court by observing that

18. Before parting with the case, we are impelled to say something. Mr. Bhusan, Learned Counsel appearing for respondents 1 and 2 has drawn our attention to a facet of earlier judgment of the High Court wherein it has been mentioned that at one time the deceased was pressurised by some superior officers. We have independently considered the material brought on record and arrived at our conclusion. But, regard being had to the suicide note and other concomitant facts that have been unfurled, we are compelled to recapitulate the saying that suicide reflects a "species of fear". It is a sense of defeat that corrodes the inner soul and destroys the will power and forces one to abandon one's own responsibility. To think of self annihilation because of something which is disagreeable or intolerable or unbearable, especially in a situation where one is required to perform public duty, has to be regarded as a non-valiant attitude that is scared of the immediate calamity or self perceived consequence. We may hasten to add that our submission has nothing to do when a case under Section 306 IPC is registered in aid of Section 113 A of the Evidence Act, 1872

On perusing the observation of Hon'ble Supreme Court in **S. Unikrishnan** it appears that the Hon'ble Supreme Court has seen the "species of fear" in the suicide note and quashed the proceeding as there is no prima facie material for abatement of suicide.

The facts and circumstances of the present case is totally different to that of the **S. Unikrishnan Nair** (supra). On perusal of the CD it appears that police has collected sufficient materials during the course of investigation. This revisional court has no power to determine the correctness, validity and probative value of the evidences collected by the I.O. during the course of investigation. This court is obliged in law to exercise jurisdiction u/s 482 Cr.P.C to quash a proceeding where there is no prima facie case. The fishing and roving inquiry regarding plausible defence is not acceptable at this stage. Thus I am of a specific view that the instant criminal proceeding cannot be quashed at this stage.

The CRR appears to be meritless and it is dismissed.

The Connected CRAN applications if pending are also disposed of.

Any order of stay passed by this court during the pendency of the instant criminal revision is hereby vacated.

Parties to act upon the server copy and urgent certified copy of the judgment be received from the concerned Dept. on usual terms and conditions.

(Subhendu Samanta, J.)