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**Satinath Goswami @ Nani Goswami
versus
The State of West Bengal & Anr.**

Mr. Tapan Dutta Gupta,
Ms. Ipsita Ghosh For the petitioner.

Mr. Pravas Bhattacharya,
Mr. Mirza Firoj Ahmed Begg.
..... for the State.

This revisional application has been filed challenging the order dated 02.12.2014 passed by the learned Additional Session Judge, Kandi, Murshidabad in connection with Session Case No. 268 of 2013 corresponding to Burwan Police Station Case No. 337 of 2009 dated 17.11.2009 under Sections 448/376/509 of the Indian Penal Code, whereby learned Judge refused an application with the prayer for discharging the accused from the case holding, inter alia, that materials collected during investigation, particularly the statement of victim lady under section Section 164 of the Criminal Procedure Code, the prayer for discharge could not be considered at the initial stage.

This case was initiated at the instance of victim, who lodged a complaint before officer-in-charge Burwan Police Station on 17.11.2009 alleging offences under Sections 448/376/511/506 of the Indian Penal Code under Burwan Police Station Case No.337 of 2009 dated 17.11.2009. After

investigation charge-sheet was filed against the petitioner.

Mr. Tapan Dutta Gupta, learned advocate appearing on behalf of the petitioner has submitted that this case was filed as counter-blast after lodging complaint by the petitioner against the opposite party no.2 and others.

Mr. Dutta Gupta has further submitted that materials collected during trial are not sufficient to frame the charge against the petitioner due to immense suspicion. In support of contention Mr. Dutta Gupta has relied on a case of **Yogesh Alias Sachin Jagdish Joshi vs. State of Maharashtra** reported in **(2008)10 SCC 394**, wherein Hon'ble Apex Court observed in paragraph 16, which is as follows:

16. It is trite that the words "not sufficient ground for proceeding against the accused" appearing in the section postulate exercise of judicial mind on the part of the Judge to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. However, in assessing this fact, the Judge has the power to sift and weigh the material for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine a prima facie case depends upon the facts of each case and in this regard it is neither feasible nor desirable to lay down a rule of universal application. By and large, however, if two views are equally possible and the Judge is satisfied that the evidence produced before him gives rise to suspicion only as distinguished from grave suspicion, he will be fully within his right to discharge the accused. At this stage, he is not to see as to whether the trial will end in conviction or not. The broad test to be applied is whether the materials on record, if unrebutted, make a conviction reasonably possible."

Mr. Pravas Bhattacharya, learned advocate appearing on behalf of the State has submitted that there are sufficient materials in the Case Diary to initiate the proceeding after framing of charge, so there is no question of discharge of accused, at this stage.

In ***Yogesh (supra)***, Hon'ble Apex Court came across with an offence alleged under Section 120B/302 of the Indian Penal Code, where it was found suspicion regarding motive, which was not sufficient to bring home an offence of murder under Section 302 of the Indian Penal Code. But, this case deals with an offence under Section 448/376/511 and 506 of the Indian Penal Code.

On a careful perusal of the Case Diary, particularly the statement of victim lady and the witnesses, I do not find any reason to come to an opinion contrary to the learned Additional Session Judge, Kandi, Murshidabad. So far as the submission of counter-blast is concerned, I find that complaint lodged by the opposite party no.2 was registered as Burwan Police Station Case No.337 of 2009 dated 17.11.2009 whereas complaint lodged by the petitioner was registered as Burwan Police Station 338 of 2009 dated 17.11.2009.

Considering all facts and circumstances, I do not find any reason to exercise the jurisdiction under Section 482 of the Code of Criminal Procedure to interfere with the order impugned.

With this observation, the revisional application stands dismissed.

Pending applications, if there be any, also stand dismissed.

Case Diary as well as L.C.R. be returned.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Bibhas Ranjan De, J.)

