

06.06.2023

Sl. No.9.

D/L.

Mithun.

Ct.No.237.

CRR/370/2016

Khagesh Mondal & Ors.

Vs.

The State of West Bengal & Anr.

Mr. Tapan Dutta Gupta, Adv.

Mr. Parvez Anam, Adv.

Ms. Ipsita Ghosh, Adv.

...for the petitioners.

Mr. Pravas Bhattacharya, Adv.

Mr. Mirza Firoj Ahmed Begg, Adv.

...for the State.

Both the learned Advocates on behalf of the parties to this revisional application are present.

Mr. Tapan Dutta Gupta, learned Advocate appearing on behalf of the petitioners has submitted that by this revisional application petitioners pray for quashing of the proceeding initiated under Section 156(3) of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C.) which was registered as Kaliachak Police Station Case No.852 of 2013 dated 22.12.2013 under Sections 341/323/326/34 of the Indian Penal Code (hereinafter referred to as I.P.C.) read with Sections 3 /4 of Explosives Substance Act.

Mr. Dutta Gupta has further submitted that earlier one Sagari Bewa lodged a complaint for the selfsame incident which was registered as Kaliachak Police Station Case No.645 of 2013 dated 08.10.2013 under Sections 341/324/326/307/34 of the IPC read with Sections 3 /4 of the Explosives Substance Act.

Mr. Dutta Gupta has argued that both the cases cannot be proceeded with for the same incident and subsequent one is required to

be quashed. But, Mr. Dutta Gupta, alternatively, has submitted that in case of variation of dates and times of occurrence of the two cases, necessary direction may be given for trial of the two cases by a particular Learned Magistrate.

Mr. Pravas Bhattacharya, learned Advocate appearing on behalf of the State has submitted that both the offences were committed by the petitioners on two different dates and times. In support of his contention, he relied on the materials on the case diary. Mr. Bhattacharya has referred to the complaints of both the cases and submitted that question of quashing of subsequent one cannot arise as incidence of both the complaints were committed on different dates and times.

On careful scrutiny of the first complaint lodged by Sagari Bewa, I find that incident alleged in that written complaint was intimated to the Mothabari Outpost under Police Station Kaliachak on 08.10.2013 at 05:55 hours and that was forwarded to Kaliachak Police Station on 08.10.2013 at 07:10 hours. From the first written complaint lodged by Sagari Bewa alleged offence cannot be said to have been committed on 08.10.2013 at about 11 p.m. From the subsequent complaint under Section 156(3) of the Cr.P.C, I find that the offences alleged to have been committed on 08.10.2013 at about 11 p.m. From the written complaint it reveals that there is a continuous inimical relation between the complainants and the accused /petitioners and in that view of the matter, incident of attacking twice cannot be ruled out at this stage.

Therefore, I do not find any reason to quash the proceeding initiated on an application under Section 156(3) of the Cr.P.C. which was registered as Kaliachak Police Station Case No.852 of 2013 dated 22.12.2013 for the offence alleged to have been committed on 08.10.2013 at about 11 p.m.

In these circumstances, particularly the list of witnesses appearing in the charge-sheet of both the cases, I find it necessary to direct for trial of both the cases by a same learned Magistrate.

With the aforesaid observations and directions, the instant revisional application being No.CRR 370 of 2016 stands **disposed of.**

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(**Bibhas Ranjan De, J.**)