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20.02.2023
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C.R.R.434 of 2021
With
CRAN 2 of 2021
With
CRAN 3 of 2021
With
CRAN 4 of 2022

In Re: An application under Section 482 of the Code of Criminal Procedure;

Miss Shagufta Sulaiman
Versus
The State of West Bengal and another

Ms. Shagufta Sulaiman. ...petitioner-in-person.

Mr. Arijit Ganguly,
Ms. Manisha Sharma.
...for the State.

Leave is granted to the petitioner appearing in person to amend the cause title as also the prayer portion of the revisional application.

The revisional application has been preferred challenging the proceedings arising out of Park Street Police Station Case No. 158 of 2017 dated 30.10.2017. The Investigating Officer on completion of investigation also filed the charge-sheet being Charge-sheet No.165 of 2018 dated 10.12. 2018. So far as the serial no.10 is concerned, there are no seizures made in connection with the instant case and serial no.13 of the report under Section 173 of the Code of Criminal Procedure reflects that there are five witnesses namely Firdous Asghar, Kasib Salam, Saba Parveen, Parvez Ahmed and the Investigating Officer being Sanjay Kumar Singh. Charge-sheet has been submitted only under Sections 323/341 of the

Indian Penal Code.

I have perused the injury report which has been submitted and relied upon by the Investigating Agency. It has been alleged before the doctor by the complainant Firdous Asghar that she sustained physical assault by Shagufta Sulaiman by way of fists and blows over face and cheek and she also suffered left knee injuries. The injury report/examination report do not reflect any bruise or even any scratch except tenderness.

The tenor of allegations according to the complainant and the witnesses were to the effect that the accused took up quarrel over the issue of misbehaviour with one of the tenants of the complainant namely Nizam and damaged his bike. She abused the complainant and assaulted her with fists and blows as also kicks. As a result of which the complainant suffered severe injury on her face, back, neck and knee. After the incident with the help of relatives she had been to Calcutta National Medical College and Hospital and she was treated at emergency ward therein. She, therefore, requested the Officer-in-Charge, Park Police Station to register a case against the present petitioner.

So far as the evidence of Kasib Salam recorded under Section 161 of the Code of Criminal Procedure is concerned, he stated before the Investigating Officer that the petitioner is their neighbour who came in front of the building and started abusing Sajid, brother-in-law and sister-in-law namely Firdous Asghar over some previous grudge in respect of a long pending dispute. The complainant protested when she was assaulted by the petitioner

with fists, blows and kicks. Her sister-in-law received injuries on her person. However, he could not see the accused persons damaging the motorcycle. His sister-in-law was subsequently taken to CNMC Hospital where she was treated and complaint was lodged to Park Street Police Station. The statements of Parvez Ahmed and Saba Parveen are of the same nature. The foundation of the case being the letter of complaint wherein the genesis of the quarrel was described from an incident of the petitioner abusing and misbehaving with the tenant namely Nizam and damaging his bike is not supported by any of the witnesses who were examined by the Investigating Officer of the case, although the factum of quarrel and assault has been corroborated. The said Nizam is also not a witness in charge-sheet, nor his statement was recorded by the Investigating Officer.

Records of the revisional application reflects that the complainant and the petitioner are at loggerheads as number of cases have been initiated between the parties as well as the families. The genesis of such cases relate to many issues including construction which the petitioner complains to be illegal.

Records of the revisional reflect that there are number of complaints made by the petitioner with the Park Street Police Station and there are also other cases under Section 144(2) of the Code of Criminal Procedure. The nature of dispute is absolutely a local dispute/neighbour dispute over trivial issues as also issues as complained of which required effective involvement of the administration.

Having considered the overall aspects of the case particularly the fact that the charge-sheet was submitted with an injury report which do not inspire any confidence as also non-examination of the tenant namely, Nizam who would have been the best possible witness as the case was initiated because of him, I am of the opinion that the report under Section 173 of the Code of Criminal Procedure so submitted by the police authorities in connection with Park Street Police Station Case No.158 of 2017 dated 30.10.2017 requires much to be desired for a criminal prosecution to continue.

Accordingly, all further proceedings of Park Street Police Station Case No.158 of 2017 dated 30.10.2017 corresponding to the charge-sheet submitted being Charge-sheet No.165 of 2018 dated 10.12.2018 under Sections 323/341 of the Indian Penal Code is hereby quashed.

Thus, the revisional application being CRR 434 of 2021 is allowed.

Pending applications, if any, are consequently disposed of.

Case diary be returned to Mr. Arijit Ganguly, learned advocate appearing for the State.

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

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

(Tirthankar Ghosh, J.)

