

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

Appellate Side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 634 of 2020

Susanta Chowdhury

Vs.

The State of West Bengal & Anr.

For the Petitioner

: Mr. Imtiaz Ahmed,
Mr. Ghazala Firdous,
Mr. Md. Aammar Zaki,
Mr. Sk. Saidullah,
Mr. Mithun Mondal,
Mr. Md. Arsalan.

For the State

: Mr. Madhusudan Sur,
Mr. Manoranjan Mahato.

Heard on

: 03.05.2023

Judgment on

: 13.06.2023

Shampa Dutt (Paul), J.:

1. The present revision has been preferred praying for setting aside and/or quashing the proceedings in the alleged and purported case being G.R Case No.2271 of 2016 arising out of Durgapur Woman Police Station Case No.95 of 2016 dated 24.12.2016 under Sections 354/323/448/506/120B of the Indian Penal Code, 1860 now pending before the learned Judicial Magistrate, 2nd Court at Durgapur.

2. The petitioner's case is that the petitioner is a very respectable person, highly qualified and is a trustee of an Educational trust namely IIAM Educational Trust.

3. The opposite party no.2 is the daughter of his neighbour namely Late Ashok Mukherjee who is staying at her father's residence along with her husband namely Omjit Chatterjee and has been trying to capture the property of Late Ashok Mukherjee from the other legal heirs of Late Ashok Mukherjee.

4. The allegation made in the said complaint in brief are to the effect that:-

on 23.12.2016 at about 8 to 8:30 pm the FIR named accused persons formed an illegal association of hooligans and criminals entered into her house and called upon her but when she ordered them to go out of the house they got annoyed and Amit Chatterjee and Susanta Chowdhury caught hold of her body and put their hands on her private parts and when she cried, her husband Omjit Chatterjee came out from another room for her rescue and when he tried to stop the said persons, all the FIR named accused persons together with a man who claimed to be an ASI of Police together with some criminals started manhandling her husband with fist and blows. She further alleged that all the men were from the ruling party and that they with police help are ready to invade and dispossess them from her father's house. When she disagreed, they seriously caught hold of her private parts with the intention to take her out of her premises with intention to do wrong with her. Meanwhile her husband sent a telephone

message to his friends and thereafter all the FIR named accused persons departed while abusing her and her husband.

5. After the completion of the purported investigation in Durgapur Women Police Station Case No.95 dated 24.12.2016, the Police authorities submitted charge sheet being No.22 dated 28.03.2017 under Sections 354/323/448/506/120B of the Indian Penal Code wherein it was stated that prima facie charge has been well established against the petitioner and others and the learned Magistrate was pleased to take cognizance.

6. It is stated that the husband of the opposite party no.2 has also been engaged in malicious activities with an intention to disturb the petitioner by creating and sending false and fake letters in the name of Department of Education, Government of West Bengal to "Tapas Chowdhury" by which name the petitioner is also known as.

7. On 18.08.2016 the petitioner and his family members received an unsigned letter from one Dilip Kumar Sinha, Advocate of Durgapur Court upon the instruction of Omjit Chatterjee and his wife being the opposite party no.2 herein making false, bogus and cooked up allegations of Tort and malicious prosecution and allied offence and criminal activities to defame his clients to which the petitioner gave a written reply through his letter dated 04.09.2016.

8. The petitioner's wife namely Shibani Chowdhury lodged an FIR with the Durgapur Police Station against the opposite party no.2 and her husband namely Omjit Chatterjee being Durgapur Police Station case No.11 dated 02/02/2017 under Sections 323/325/506 and 34 of the Indian Penal

Code and the same is pending before the learned Additional Chief Judicial Magistrate, Durgapur.

9. That on 10.03.2017 one of the accused in the above mentioned FIR namely Amit Chatterjee moved an application under Section 156(3) of the Code of Criminal Procedure on 10.03.2017 against husband of the opposite party no.2 namely Omjit Chatterjee and one Jayanta Dutta inter alia, alleging illegal acts to intentionally grab the property of an entire bank balance of the deceased Ashok Mukherjee thereby being scared, apprehending loss of life of his sister, complained to the learned court praying to treat the same as FIR for the offences punishable under Sections 364/201/328/347/404/120B of the Indian Penal Code and the learned court was pleased to direct the Officer-in-Charge of Durgapur Police Station to treat the complaint as FIR and investigate.

10. It is further stated that the opposite party no.2 along with two others have also instituted a title suit being T.S 52 of 2017 against the accused persons in the present case namely Amit Chatterjee and eight others and the same is pending before the learned Civil Judge, Junior Division, 1st Court, Durgapur.

11. **Mr. Imtiaz Ahmed, learned counsel for the petitioner** has submitted that the impugned proceeding is vexatious, malafide and has been initiated with malafide intent just to harass and humiliate the petitioner. In such circumstances, such vexatious proceeding is liable to be quashed. The impugned proceeding is otherwise bad in law and as such the same is liable to be quashed and/or set aside.

12. **Mr. Madhusudan Sur, learned counsel for the State** has placed a copy of the case diary.

13. On perusal of the materials on record and the case diary, it appears that there is a family dispute and thus, several litigations including a civil suit between the parties related to the property of late Ashok Kumar Mukherjee, father of the opposite party no.2/complainant as has been filed are pending.

14. **In spite of due service there is no representation on behalf of the opposite party no.2.**

15. The materials on record and the case diary prima facie show that the dispute between the parties is very old and disturbing. **Considering the serious nature of allegations and the prima facie materials in the case diary against the petitioner, the present case should be permitted to proceed towards trial.** But the fact that so many cases are pending between the parties relating to family property and personal disputes, the parties to this case should be referred to mediation, in the interest of justice.

16. **The revisional application being CRR 634 of 2020 is thus dismissed.**

17. The learned Magistrate is directed to refer the parties for mediation to the respective District Legal Service Authority and make all efforts to effect mediation between the parties, in respect of all their disputes.

18. No order as to costs.

19. All connected applications stand disposed of.

20. Interim order, if any, stands vacated.

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

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

(Shampa Dutt (Paul), J.)