

17.04.2023
Court-42
Item No.11

CRR/666/2023
Punam Chowdhury
Vs.
State of West Bengal & Anr.

For the Petitioner:- Mr. Sabyasachi Banerjee, Adv.,
 Mr. Anirban Dutta, Adv.,
 Mr. Priyanka Mukherjee, Adv.,

The petitioner has invoked inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure with a prayer to quash a criminal proceeding registered as GR Case No.3982 of 2021 arising out of Petrapole Police Station Case No.170 of 2021 under Sections 417/465/467/468/471 of the Indian Penal Code and Section 14 of the Foreigners Act.

On 7th October, 2021, while the petitioner was in immigration counter for proceeding to Bangladesh with valid Indian Passport and Visa, she was asked certain questions on her nationality and documentation and thereafter detained in ICP, Haridaspur. On the same day, one Debashis Majumder, Immigration Officer submitted a written complaint against the petitioner alleging, inter alia, that while profiling the applicant, it was found that she entered India on 5th January, 2014 with Bangladeshi passport on medical visa. Then, she managed to stay in India marrying one Rajib Chowdhury. She also managed to procure Indian Passport and other documents to prove that she is an Indian citizen. However while profiling the applicant it was ascertained from the Bio page of Bangladeshi passport that was a Bangladeshi National. On the basis of the said complaint, police registered a case under Sections 417/465/467/468/471 of the Indian Penal Code and Section 14 of the Foreigners Act.

It is also not disputed that charge-sheet has been submitted against the petitioner in respect of the above mentioned case.

It is vehemently urged by the Mr. Banerjee, learned Advocate on behalf of the petitioner that the petitioner is in possession of a valid Indian passport. She has valid Aadhar Card, Voter's Identity Card and PAN Card. Only on the basis of screenshot of a Bangladeshi passport, petitioner cannot be held to be a Bangladeshi National. Mr. Banerjee takes me to the copy of the seizure list in respect of the documents seized in connection with the abovementioned case. It is submitted by him that the petitioner had all valid documents in respect of her claim that she is an Indian citizen. All such documents were issued prior to 2014, when she was allegedly came to India with Bangladeshi passport. But only on the basis of a screenshot of a Bangladeshi passport she has been implicated in the case. According to Mr. Banerjee charge-sheet against the petitioner has been falsely implicated and continuation of the proceeding will be abuse of the process of the Court.

Section 482 of the Code provides:

"482. Saving of inherent powers of High Court. Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

In **Ramveer Upadhyay & Anr. vs. State of U.P & Anr.** reported in **2022 SCC OnLine SC 484**, the Hon'ble Supreme Court held that even though the inherent power of the High Court under Section 482 of the Cr.P.C to interfere with the criminal proceeding is wide, such power has to be exercised with circumspection in exceptional

cases. Jurisdiction under Section 482 of the Cr.P.C is not to be exercised for the asking.

The Hon'ble Apex Court considering series of decisions on the subject finally came to the following conclusion:-

“In our considered opinion criminal proceeding cannot be nipped in the bud by exercise of jurisdiction under Section 482 of the Cr.P.C only because the complaint has been lodged by a political rival. It is possible that a false complaint may have been lodged at the behest of a political opponent. However such possibility would not justify interference under Section 482 of the Cr.P.C to quash the criminal proceeding.”

In Ramveer Upadhyaya (Supra), it was contended that a false complaint was lodged against the accused due to political rivalry. The instant case, however, was registered on the basis of a written complaint submitted by an Immigration Officer against the petitioner when he found during immigration that the petitioner had entered this country with a Bangladeshi passport in the year 2014. During investigation, she indeed filed her Indian passport, voter identity card, PAN card, Aadhar card etc. But all such documents are subject to scrutiny by the trial court. It is also to be looked into as whether the Bangladeshi passport of the petitioner was valid or not.

Therefore, at this stage, this Court is of considered view that the criminal proceeding against the accused/petitioner cannot be quashed invoking Section 482 of the Cr.P.C.

The revision is therefore, summarily dismissed.

(Bibek Chaudhuri, J.)