

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

CRR 469 of 2015
with
IA No. CRAN 7 of 2021

Saptak Guha Mazumder & Anr.
Vs.
The State of West Bengal & Anr.

Mr. Milon Mukherjee, Sr. Advocate
Mr. Sandipan Ganguly, Sr. Advocate
Mr. Debangana Bhattacharjee
... For the petitioners

Mr. Prasun Kumar Datta, Ld. APP
Mr. Narayan Prasad Agarwal
Mr. Pratick Bose
... For the State

Affidavit of service filed in Court today is taken on record.

This revisional application has been filed with a prayer for quashing the proceedings in connection with GR Case No.5253 of 2013 under Sections 448/323/354/506/34 of the Indian Penal Code pending before the Court of the learned Additional Chief Judicial Magistrate, Barrackpore, corresponding to the proceeding of Baranagar Police Station Case No.627 dated 26th October, 2013.

Both the learned advocates appearing on behalf of the petitioners and as that of the State is present. None appears on behalf of the opposite party no.2.

From record, it appears that the proceeding was initiated by a written complaint filed by the opposite party no.2 before the Officer-in-Charge, Baranagar Police Station, alleging, inter alia, that on 25th

October, 2013 at about 8.30 a.m. the petitioner along with others, being employees of Magma Fincorp Limited, had been to her flat and entered into the flat forcibly, pushed her and abused her in filthy language. It was further alleged that they snatched her cell phone and dialled her husband for repayment of loan. They also threatened her husband with dire consequences. On receipt of that written complaint on 26th October, 2013 at about 14.45 hours, Baranagar Police Station Case No.627 of 2013 was started under Sections 341/354/506/34 of the Indian Penal Code. The case was investigated. During investigation, statement of neighbouring flat owners were recorded and submitted charge sheet under Sections 448/323/379/354/506/34 of the Indian Penal Code.

Mr. Milon Mukherjee, learned Senior Counsel, on behalf of the petitioners submitted that this was a counter-blast of a notice of arbitral proceeding dated 18th October, 2013 which was issued against the husband of the complainant recording non-payment of loan. It has been further submitted that the arbitral award of Rs.21,36,602/- subsequently was passed in favour of the petitioners' company, i.e., Magma Fincorp Limited. So, according to Mr. Mukherjee, the allegation made in the First Information Report (in short, FIR) is absolutely false and such accident was never happened at the instance of the petitioners.

Mr. Prasun Kumar Datta, learned advocate on behalf of the State has relied on the case diary and referred to the statement of witnesses recorded under Section 161 of the Code of Criminal Procedure (in short, CrPC).

On careful perusal of the written complaint/formal FIR, I find that there was no allegation of Section 323 or Section 379 of the Indian Penal Code. At the time of submission of charge sheet, the Investigating Officer has quoted the provision of Sections 448/379/323 of the Indian Penal Code.

On further careful perusal of the arbitration proceedings as well as the FIR, I find that there was the issue of repayment of huge amount of loan by the husband of the de facto complainant. Not only that, after perusing the statement of the witnesses recorded under Section 161 of the CrPC, I find that the petitioners went to the flat of the opposite party no.2 and asked about the repayment of loan and the statement of the opposite party no.2 has not been corroborated by any other witnesses examined under Section 161 of the CrPC, excepting her husband who is a party to the arbitral proceeding. To attract the provision of Sections 323 and 379, I do not find any material in the case diary. That apart, on perusal of the entire materials on record, nothing is found to be cogent to continue with the proceedings which was initiated on 26th October, 2013 after issuance of notice of arbitration proceeding on 18th October, 2013 regarding non-payment of huge amount of loan.

In the premise set forth above, continuation with the proceeding would result in an abuse of process of Court and will not serve ends of justice

In the result, the proceedings in connection with GR Case No.5253 of 2013 under Sections 448/323/354/506/34 of the Indian

Penal Code pending before the Court of the learned Additional Chief Judicial Magistrate, Barrackpore, corresponding proceeding of Baranagar Police Station Case No.627 dated 26th October, 2013, stands quashed.

The petitioners shall be discharged from their respective bail bonds.

Case Diary be returned to the learned advocate for the State.

The revisional application, being CRR 469 of 2015, and the corrected application, being CRAN 7 of 2021, stand disposed of.

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

Criminal Section is directed to supply certified copy of this order, if applied for, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)