

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 1056 of 2020

With

CRAN 1 of 2020

(Old No.: CRAN 2764 of 2020)

With

CRAN 2 of 2021

Tapan Roy @ Paul

Vs

The State of West Bengal & Ors.

For the Petitioner : Mr. Satrajit Sinha Roy.

For the State : Mr. Saibal Bapuli,
Mr. Arijit Ganguly,
Mr. Sanjib Kumar Dan.

Hearing concluded on : 30.08.2023

Judgment on : 27.09.2023

Shampa Dutt (Paul), J.:

1. The present revision has been preferred praying for quashing of Baranagar Police Station Case No. 427 of 2019 and Baranagar Police Station Case No. 140 of 2020 pending before the Additional Chief Judicial Magistrate at Barrackpore.
2. The petitioner's case is that the opposite party no.4 lodged a complaint before the Baranagar Police Station against the petitioner and his wife on 18th March, 2020 which was registered as Baranagar Police Case no. 140/2020 dated 18th March, 2020 under Sections 323/354/506/34 of the Indian Penal Code, as a counter blast to Baranagar Police Station Case no. 138/2020 dated 18th March, 2020 lodged by the revisional petitioner herein.
3. The allegation in the complaint are as follows:-
 - i) *The opposite party with aide and help of their local councilor and other anti social elements tried to liquidate the petitioner and his family with two children upon burning the front door of the flat and nearby areas of the common passage of the building was heavily burnt which was observed by the petitioner on the next date upon opening the front door.*
 - ii) *The grievance of the petitioner is that the opposite party was involved in electricity theft and have connected their electricity line from the meter of the petitioner which was complained before the Local office of the Calcutta Electric Supply Corporation and also lodged a complaint before the*

Inspector-in-Charge, Baranagar Police Station. Such complaint was lodged on the 16th July, 2019 and the petitioner locked the meter board of the petitioner for further stealing of electricity. The opposite party no. 4 was running the business of 'honey comb' in their flat in collusion with other accuseds. Such electricity theft was made to run the Air-conditioner machine throughout day or night.

- iii) On 26.08.2019 the said opposite party no. 4 and other accuseds threatened the petitioner with dire consequences and asked the key of the meter box of the petitioner to do further mischief and to operate their respective illegal electricity connection. It is pertinent to mention herein that the petitioner is an Advocate. The petitioner lodged a complaint on 26th August, 2019 intimating the aforesaid incident before the Baranagar Police Station.*
- iv) On 28th August, 2019 the petitioner observed in morning while he was about to move for dropping his sons in their respective school that the entire front part of the flat including enter and exit door was burnt and the marble finishing of the terrace was also destroyed. The petitioner lodged a complaint immediately before the Baranagar Police Station complaining the said respondent that the accused persons perpetrated criminal conspiracy to liquidate the petitioner and his family for disclosing the mischief.*
- v) That the accused persons assaulted the petitioner and his wife who had sustained injury and the case was registered as Baranagar, P.S. Case No. 138/2020 dated 18th March, 2020.*

4. The petitioner has thus prayed that Baranagar P.S. Case No. 140/2020 dated 18th March, 2020 under Sections 323/324/506/34 of the Indian Penal Code and the Baranagar P.S. Case No. 427 of 2019 dated 28th August, 2019 are required to be quashed as those cases were instituted as a counter blast to the petitioner's cases being Baranagar Police Station No. 426 of 2019 and Baranagar P.S. Case No. 23 of 2020 dated 15th January, 2020 and Baranagar P.S. Case No. 138 of 2020 dated 18th March, 2020 filed against the opposite party/complainant herein.
5. **Mr. Satrajit Sinha Roy, learned counsel for the petitioner** has submitted that the aforesaid Baranagar P.S. Case No. 427 of 2019 and Baranagar P.S. Case No. 140 of 2020 was registered without prima facie material on record and those cases are untenable in law.
6. That the Baranagar P.S. Case No. 427 of 2019 and Baranagar P.S. Case no. 140 of 2020 failed to disclose any offence upon prima facie document and/or article seized by the Baranagar Police Station.
7. That Baranagar P.S. Case No. 427 of 2019 and Baranagar P.S. Case no. 140 of 2020 were instituted to stall the investigation of the cases registered against the complainant herein, by the petitioner and as such being mala fide, illegal and bad in law and are required to be quashed.
8. **The learned counsel for the state has placed the case diary related to both the cases.**
9. **In spite of due service upon the opposite party, Ms Saptami Mukherjee @Dolly, there is no representation on her behalf.**

10. From the case diary related to Baranagar P.S. Case no. 427 of 2019 under Sections 435/506 of the Indian Penal Code, it appears that the said case has ended in FRT.

11. From the materials in the case diary in Baranagar P.S. Case No. 140 of 2020 under Sections 354/323/506/34 of the Indian Penal Code, it appears at page 9 that the opposite party, Saptami Mukherjee was treated at Baranagar State General Hospital on 18.03.2020. The following injuries were found on examination:-

i) O/E:- Abrasion injuries over neck, Rt hand, forearm and lower lip oozing from lower lip pain and swelling and redness over face (just below Lt. eye).

History of assault was given as:-

i) Physical assault by Tapan Roy @ Paul and his wife help of a stick and brooms and shoes over face, lips, hand and upper limbs.

12. Several statements under Section 161 Cr.P.C. has been recorded, which prima facie show that the parties are residents of the same premises. There are several disputes, case and counter cases between the parties.

13. Materials on record make out a prima facie case against the petitioner in respect of the offences alleged, which should be adjudicated in trial.

14. CRR 1056 of 2020 is dismissed.

15. The Learned Trial Court to refer the case and the parties to mediation to the concerned District Legal Services Authority, Mediation Centre.

16. In case of the mediation not being fruitful, the Learned Trial Court shall proceed in accordance with law.
17. All connected applications, if any, stands disposed of.
18. Interim order, if any, stands vacated.
19. Copy of this judgment be sent to the learned Trial Court for necessary compliance.
20. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)