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C.R.R.1179 of 2021

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973;

Sarin Akhtar @ Sarbin Sarkar
@ Sabrin Sarkar and others
Versus
The State of West Bengal and another

Mr. Moyukh Mukherjee,
Mr. Koustav Lal Mukherjee,
Mr. Abhijit Singh,
Ms. Aishwarya Bazaz.
...for the petitioners.

Mr. Swapan Banerjee,
Mr. Suman De.
...for the State.

Mr. Mukherjee, learned advocate appearing for the petitioners prays for quashing of the proceedings in relation to Swarupnagar Police Station Case No.391 of 2020 dated 16.08.2020 under Sections 448/341/325/323/307/354B/308/34 of the Indian Penal Code.

The Investigating Authorities on conclusion of investigation submitted charge-sheet under Sections 447/323/325/506/34 of the Indian Penal Code.

The three petitioners, namely, Sarin Akhtar @ Sarbin Sarkar @ Sabrin Sarkar, Sk. Faiyaz Sarkar @ Fayej Sarkar and Hasina Begum have been impleaded as accused persons in the charge-sheet filed in connection with Swarupnagar Police Station Case No.391 of 2020 dated 16.08.2020.

Mr. Mukherjee, learned advocate appearing for the

petitioners submits that the complainant of the case impersonated himself as a Senior Government Official of the CBI and collected money from different persons for providing job at Government Offices. Believing such representation, the present petitioners along with many others gave money to the complainant for obtaining job. The complainant being fraud neither arranged for any job nor refunded the money. Pursuant to which, Park Street Police Station Case No.174 dated 22.09.2020 was registered for investigation. The said case also ended in charge-sheet wherein the police authorities were able to seize the Identity Card of CBI, Government of India, Aadhaar Card, Voter Card, PAN Card, Visiting Card and other Identity Cards of the complainant. The charges were under Sections 417/418/419/467/468/469/471/506/120B of the Indian Penal Code. The brief facts as set out in the charge-sheet of Park Street Police Station Case are as follows:

“The FIR named accused person Md. Kamaruz Zaman Molla entered into a criminal conspiracy with others and impersonate to that conspiracy dishonestly induced himself as a CBI’s higher Officer, showed his identity card to work in CBI and he has contacts with senior government officials. He also assured that he could give the complainant and his brother a government job but for that they have to pay amount of Rs.8 Lakhs. The complainant believed him completely and gave him amount of Rs.8 Lakhs. After a long delay, when no arrangement was made to give their job, the complainant went to his house and comes to know that

he was not a CBI officer, and his identity as a completely false. She also knows that not only from her but also from different people has taken total amount Rs.40 Lakhs with an assurance to provide job. When the complainant wants returned money then accused person threatened her with dire consequence. Thereby the accused person cheated the complainants and others with knowledge by used the forged documents & Identity of CBI as genuine for purpose of cheating, also committed criminal breach of trust.”

I have considered the submissions advanced by the learned advocate for the petitioners as well as that of the State. I find that there is a narration in the charge-sheet of Park Street Police Station that the present petitioners had been to the house of the complainant for refund of their money and as a consequence the criminal case has been initiated. The complainant in Swarupnagar Police Station Case No.391 of 2020 is the sole accused in Park Street Police Station Case No.174 of 2020. The complainant is using Swarupnagar Police Station Case No.391 of 2020 as a shield of protection in Park Street Police Station Case No.174 of 2020.

Having considered the totality of the circumstances and particularly the case diaries, I am of the opinion that the initiation of Swarupnagar Police Station Case No.391 of 2020 was malafidely proceeded with for the purpose of registration of the said case. The continuation of the same, as such, would be an abuse of the process of law. Case diaries also reflect that the accused persons named in Swarupnagar Police Station Case No.391 of 2020 happen

to be witnesses in Park Street Police Station Case No.174 of 2020.

Having considered the manner in which the proceedings of Swarupnagar Police Station Case No.391 of 2020 has been initiated, investigated, registered and charge-sheet filed therein, I am of the opinion that there has been a complete abuse of the process of law and, as such, the further continuance would result in miscarriage of justice. Consequently, all further proceedings arising out of Swarupnagar Police Station Case No.391 of 2020 dated 16.08.2020 under Sections 448/341/325/323/307/354B/308 /34 of the Indian Penal Code is hereby quashed so far as the present petitioners are concerned

Accordingly, CRR 1179 of 2021 is allowed.

Pending application, if any, is consequently disposed of.

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.)