

22.02.2023

Item No.18
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 2284 of 2021

**Biswajit Bhowmik and Ors.
versus
State of West Bengal & Anr.**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973.

Mr. Amlan Jyoti Sengupta ... For the Petitioners.

Mr. Saibal Bapuli,
Mr. Arijit Ganguly,
Mr. Bibaswan Bhattacharya ... For the State.

Affidavit-of-service filed in Court today be kept on record.

Memo of Evidence submitted by Mr. Arijit Ganguly, learned advocate appearing for the State be kept with the record.

Mr. Sengupta, learned advocate appearing for the petitioners submits that the allegations in the complaint are not substantiated in the documents relied upon by the prosecution or in the charge-sheet submitted by the investigating agency. Learned advocate submits that the nature of the seized materials do not corroborate the allegations in respect of the knives and scissors which were alleged to be used in course of the scuffle, altercation or assault as alleged. According to the learned advocate, the facts have been bolstered up for incorporation of various Sections and the charge-sheet has been mechanically submitted before the learned court.

I have considered the case diary and also taken into account the subject-matter of the application which has been filed before this Court. The prayer of the petitioners is for quashing of the proceedings. *Prima facie*, on an appreciation of the materials appearing in the case diary, this Court is not in a position to hold that no offence has been made out. There are offences which are spelt out in respect of the materials collected by the investigating agency. There are number of Sections on which the charge-sheet has been submitted. It may be that all the Sections are not applicable in respect of the materials so collected by the investigating agency. Such consideration of the applicability of the Sections, according to the materials which have been collected, is to be considered at the stage of consideration of charges.

Accordingly, the petitioners are granted liberty to take out an application under Section 239/240 of the Code of Criminal Procedure, if so advised, at the appropriate stage.

The learned Magistrate at the said stage would consider the applicability of the Sections in respect of the materials collected by the investigating agency on which it proposes to rely upon.

With the aforesaid directions, the revisional application being CRR 2284 of 2021 is disposed of.

All pending connected applications, if any, are consequently disposed of.

Case diary be returned to Mr. Ganguly, learned advocate for the State.

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 with all requisite formalities.

(Tirthankar Ghosh, J.)