

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 2661 of 2019

Sk. Reajul Hoque @ Sk. Riajul
Vs
The State of West Bengal

For the Petitioner : Mr. Syed Nurul Arefin.

For the State : Mr. Prasun Kumar Datta,
Mr. Md. Kutubuddin.

Heard on : 24.07.2023

Judgment on : 17.08.2023

SHAMPA DUTT (PAUL), J.:

1. The present revision has been preferred praying for quashing of proceeding of G.R. Case No.273 of 2017 in connection with Uluberia Police Station Case No.88 of 2017 dated January 28, 2017 under Sections 147/148/149/186/332/333/353 of the Indian Penal Code, 1860 pending before the court of the learned Additional Chief Judicial Magistrate, Uluberia.
2. The petitioner's case is that he is a Teacher of Tehatta Balika Prathamik Vidyalaya.

3. On January 28, 2017, on the basis of a suo motu First Information Report lodged by one Sri Subhrajit Majumdar, Sub Inspector of Police attached to Uluberia Police Station, the instant proceeding being Uluberia Police Station Case No.88 of 2017 dated January 28, 2017 under Sections 147/148/149/186/332/333/353 of the Indian Penal Code, 1860 was registered for investigation against as many as nine accused persons including the petitioner herein who was arraigned as accused no.7 on the allegations to the effect that a communal and administrative disturbance was going on since last two months in and around Tehatta High School over the celebration of “Nabi Diwas” by the Muslim Community students of the said Tehatta High School (hereinafter referred to as 'said school'). It was further alleged that the Managing Committee and Teacher-in-Charge of the said school were constantly raising objection for celebration of “Nabi Diwas”, over which many administrative meetings were held in different offices but no fruitful result was achieved. On January 28, 2017 at about 6 a.m., without any prior permission from any authority, Muslim Community students formed an unlawful assembly in front of the said school. On receiving such information, police officers along with force reached at Tehatta High School and found that the Muslim Community students were trying to celebrate “Nabi Diwas” forcibly within the said School compound. The police personnel requested them not to celebrate without getting any order from the appropriate authority but they did not pay any heed.

Thereafter, some outsiders entered into the said school and provoked the students of Muslim Community of the said school and the police officers requested all the students and outsiders not to create any communal disturbance and ultimately at about 14:30 hours the police party managed to stop the “Nabi Diwas” celebration by the said students inside the school premises and asked the students to leave the school premises. But thereafter, some local people again provoked the students and assaulted the police party with lathi, rod etc., as a result some police personnel sustained injuries.

4. The investigating agency filed a charge sheet being charge sheet no.553 of 2017 before the Court of the learned Additional Chief Judicial Magistrate at Uluberia.
5. The petitioner states that he is innocent and in no way connected with the instant case far less the allegations alleged herein.
6. The petitioner states that being a teacher of the said school on January 28, 2017 he was present on duty at 10:30 A.M to 1:30 P.M and thereafter on the same day, he was at Panchayat office of Tehatta Kantaberia-II from 1:40 PM to 7.00 PM engaged in sorting of Digital Ration Card as per order of Panchayat Pradhan of Tehatta Kantaberia No.II.
7. The petitioner further states that a case under Section 108 of Cr.P.C. was started against the present petitioner before the Court of the learned Sub Divisional Executive Magistrate, Uluberia vide NGR Case No.1044 of

2017, when on September 12, 2017 after hearing both the parties, **the said case was dropped against the present petitioner.**

8. That the impugned proceeding is completely an abuse of the process of court and is thus liable to be quashed.

9. **The State has placed the case diary.**

10. **From the materials on record it appears:-**

i. That a letter dated 24.04.2017 issued by the Head Master of Tehatta Balika Prathamik Vidyalaya shows that the petitioner, a permanent teacher, was present in school on 28.01.2017 (date of occurrence) from 10:30 am to 1.30pm.

ii. Letter dated 24.04.2017 issued by the Pradhan of Tehatta Kantaberia No. II Gram Panchayat shows that the petitioner an elected member of Panchayat Samity, Uluberia-II (PS-8) was present in the Panchayat office for Digital Ration Card sorting on 28.01.2017 from 1.40 pm to 7.00 pm).

iii. Memo No.299/TK-II/GP dated 16.01.2017 of Tehatta-Kantaberia-II Gram Panchayat shows that the petitioner is a G.P. member and Assistant Teacher Tehatta Balika Prathamik Vidyalaya and was directed to attend the Ration Card Distribution came after school hours from 18.01.2017 to 07.02.2017.

11. **The alleged time of occurrence as shown in the formal FIR is between 6 hrs to 16:30 hrs.**

12. The petitioner has shown by documents that on 28.01.2017 he was not present from 10.30 am onwards till 7 pm **but no explanation is there for the period from 6.00 hrs (am) to 10.30 am.**
13. **Case diary contains injury report in respect of the Police personnel, who sustained injuries in due course of carrying out their official duty to maintain law and order.**
14. Considering the nature of the offences alleged and materials on record, there appears a prima facie case against the petitioner to proceed toward trial.
15. **The revisional application being CRR 2661 of 2019 is dismissed.**
16. All connected Applications stand disposed of.
17. Interim order if any stands vacated.
18. Let a copy of this judgment be sent to the learned Trial Court for necessary compliance.
19. Urgent Photostat Certified copy of this Judgment, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)