

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)
Appellate Side

Present:

Justice Bibhas Ranjan De

C.R.R. 2848 of 2017

With

IA No. CRAN 3 of 2018 (CRAN 1313 of 2018)

Asit Maity @ Ashit Maity

Vs.

The State of West Bengal & Ors.

For the Petitioner

:Mr. Amitabha Ghosh, Adv.

Mr. Madan Mohan Roy, Adv.

For the State

:Mr. Saswata Gopal Mukherjee, Ld. P.P.

Mr. Imran Ali, adv.

Ms. Debjani Sahu

Heard on

: 03rd October, 2023

Judgment on

: 04th October, 2023

Bibhas Ranjan De, J.

1. This revision application has been filed with a prayer for quashing the charge sheet bearing no. 64 of 2016 dated 06.03.2016, under Section 354B of the Indian Penal Code read with Section 3(i)(x)(xi)(xv) of the Scheduled Caste and Schedule Tribe Prevention of Atrocities Act, 1989 (For short “SC ST Act”) submitted before the Ld. Additional Chief Judicial Magistrate, Uluberia, Howrah.
2. The proceeding was initiated by a written complaint of Suchitra Maity/opposite party no.2 addressed to officer in-charge of Shyampur Police Station, Howrah, wherein, it was alleged that she along with her husband were not allowed to enter into the house by her brother in-law at the instigation of Asit Maity i.e. petitioner of this case, Supriya Maity, Bikash Maity, Mousumi Matity and Chiranjit Maity. It was alleged that her husband financed for construction of the disputed house and that house was also gifted to her by grandfather in-law and his wife. One room was occupied by her brother in-law but the opposite party no. 2 was not allowed to occupy the other room. It was further alleged that on 27.10.2015 she along with her husband and son entered into one of the

rooms. Police came over there and asked them to go out of the room. Petitioner assaulted her husband in presence of police and outraged her modesty by pulling cloth and abused her by uttering 'lower caste'. As per instruction of police both the rooms were vacated and locked up by padlock and from then on she has been residing at her father's house. Subsequently, on 11.12.2015 police came to her father's house and asked about theft of articles from the locked room. She witnessed her brother in-law Bikash Maity taking away all the articles of her room.

- 3.** On receipt of that application on 22.01.2016 at 10.35 hours Shyampur Police Station case no. 20 of 2016 dated 22.1. 2016 under section 354B, 379, 34 of the Indian Penal code read with section 3(i)(ii) (x) (xi) of SC ST Act was started.
- 4.** The said case was investigated and report was submitted in final form against only the petitioner with prayer for discharge of all other accused.
- 5.** Ld. Advocate, Mr. Amitabha Ghosh, appearing on behalf of the petitioner has referred to the report in final form and submitted that there is nothing to suggest regarding commission of any offence under the Indian Penal Code.

Regarding SC ST Act, Mr. Ghosh has submitted that during investigation no caste certificate was ever collected to justify the submission of charge sheet under section 3 of the SC ST Act. Mr. Ghosh has further relied on the statements of witnesses during investigation.

6. Ld. Advocate, Ms. Debjani Sahu, appearing on State has relied on case diary.

7. To constitute an offence under Section 3 of the SC ST Act it is axiom that victim/ defacto complainant shall belong to Schedule Caste or Schedule Tribe. In this case, claim of caste by the petitioner no. 2 has not been substantiated by any caste certificate. During investigation it is found that no SC/ST certificate was issued in favour of opposite party no. 2 ever. Therefore, offence under Section 3 of the SC ST Act cannot be said to have been attracted in this case.

8. On the other hand, I have gone through all the statements of witnesses recorded during investigation. I find that all the local witnesses specifically stated in their respective statements that no incident of assault or no incident of abusive language or outrage of modesty ever took place at the instance of the petitioner or any other accused of this case

though opposite party no.2, her husband and her father stated about assault, abusive language and outrage of modesty.

- 9.** On careful perusal of the report in final form between the line
It has also come to my knowledge that in course of investigation nothing was revealed save and except dispute of ownership of a house which is purely a civil in nature.
- 10.** Therefore, uncontroverted allegations made in the written complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the petitioner.
- 11.** As a result, the revision application being no. CRR 2848 of 2017 stands allowed. The proceeding in respect of charge sheet bearing no. 64 of 2016 dated 06.03.2016, under Section 354B of the Indian Penal Code read with section 3(i)(x) (xi)(xv) of the Scheduled Caste and Scheduled Tribes Prevention of Atrocities Act, 1989, submitted before the Learned Additional Chief Judicial Magistrate, Uluberia, Howrah stands quashed.
- 12.** Interim order, if there be any, stands vacated and all pending applications, if any, stand disposed of accordingly.
- 13.** Case diary be returned.

- 14.** All parties to this revisional application shall act on the server copy of this order downloaded from the official website of this Court.
- 15.** Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[BIBHAS RANJAN DE, J.]