

01.09.2023
Serial no. 24
[G.S.D]

CRR 3283 of 2023

In the matter of : Shyamal Dey Sannamath & Ors.

... .. Petitioners

Md. Zohaib Rauf
Mr. Sumitava Chakraborty

... for the petitioners

Mr. Madhu Sudan Sur
Mr. Manoranjan Mahata

... For the State

The petitioner is directed to serve a copy of this revisional application upon Mr. Madhu Sudan Sur, Learned Advocate, who ordinarily appears on behalf of the State. His appearance may be regularised by the concerned authority.

Learned Advocate for the petitioners challenges the charge-sheet being no. 28/21 dated 22.4.21, which was filed before the Learned ACJM, Bidhannagar under Sections 341/323/325/354B/506/120B of the IPC.

Learned Advocate submits that there are civil disputes between the parties, who are relatives, and a number of litigation are pending between them and the present case is one which has been maliciously instituted to rope in the present petitioners.

There are statements so far as the complicity of the present petitioners are concerned. Added to that, there are

medical reports, which have been collected by the Investigating Agency. The Medical Report has been prepared by a Medical Officer of Salt Lake Sub-Division.

Learned Advocate submits that the case has been initiated with an ulterior motive to implicate the petitioners due to private and personal grudge because of the civil dispute caused between the parties.

I have considered the submissions of the injured/victim and on an assessment of the same as well as in view of the corroborating nature of the statement under Section 161 of the Cr.P.C. supported by the medical documents, it is very difficult to hold that no case has been made out for continuation of the present proceeding.

Learned Advocate for the petitioners has relied upon Paragraph 20 of a judgment of the Hon'ble Supreme Court reported in *(2020) 13 SCC 435 (Ahmad Ali Quraishi & Anr. – Vs- State of Uttar Pradesh & Anr.)*. Learned Advocate has submitted that in the cited case, at the stage of investigation, proceedings were quashed. The facts and circumstances of the said case are completely different from that of the present case, which is under consideration. The nature of the oral evidence which is appearing in this case and the medical documents along with the statement of the injured do not inspire the confidence of this Court to hold

that no case has been made out for continuation of the present proceedings.

However, the Learned Trial Court is at the stage of consideration of charges.

Having considered the same, I grant liberty to the petitioners to take out an application in the nature of Section 239 of the Cr.P.C. If such an application is filed, the Learned Magistrate would consider the same in accordance with law without being influenced by any of the observations made by this Court while disposing of the present revisional application.

With the aforesaid observations, CRR 3283 of 2023 is disposed of.

Pending application, if any, is also disposed of.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court at Calcutta.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Tirthankar Ghosh, J.)