

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 3327 of 2019

Pronab Mondal & Ors.

Vs

The State of West Bengal.

For the Petitioners : Mr. Pratip Kumar Chatterjee.

For the State : Ms. Rita Dutta.

Heard on : 22.02.2023

Judgment on : 14.03.2023

Shampa Dutt (Paul), J.:

The present revision has been preferred praying for quashing the proceeding and charge sheet No. 159/19 dated 31.05.2019 under Sections 341/186/332/353/419/511/34 of the Indian Penal Code arising out of Burwan Police Station, Case No. 416/18 dated 03.12.2018 under Sections 341/186/332/353/419/379/511/34 of the Indian Penal Code and 184/179 of M.V. act (G.R. 1344/2018) pending before the Additional Chief Judicial Magistrate, Kandi, Murshidabad.

The petitioners case is that on 03.12.2018 one Chandan Das, S.I., Burwan Police station, Murshidabad, lodged a written complaint before the Officer-in-Charge, Burwan Police station, Murshidabad alleging inter alia that he arrested the accuseds (1) Pronab Mondal (32 years), (Driver of Vehicle No. WB40 Y/6310, (2) Palash Ghosh (33 years), (3) Arabinda Ghosh (28 years), (4) Sajal Ghosh (34 years), and seized articles viz (1) One TATA SUMO Vehicle Bearing Regd. No WB 40Y/6310 (2) One Canteen Smart Card No. GA01060753404300DOO in the name of 146811209W Sepoy Palash issued from Central Command Lucknow. (3) One Kendriya Smart Card No. LA010607534043000DO1 liquor card issuing authority 1HQ of MOD (Army) in the name of 14681209W Sepoy Palash Ghosh (4) One Identity Card of Government Rail War Police Howrah Brass No. C/432 Sl. No. 265 in the name of Palash Ghosh (5) Bangladesh Bank one Rs.500/- ST 2 2229494 one Rs.

500/- gha ha 2229494, one Rs.100/- kha kha 1680498, one Rs.10/- gha da 67868958, one Rs.20/- kha ja 2551151, one Rs.2/- gha uma 0893448 and (6) Nepal Rastra Bank one Rs. 500/, Rs.50/-, Rs.10/-, as per seizure list. On 02.12.2018 while on Naka Checking Duty at Marut Point near Village- Majlishpur, at about 00.05 hours he found that in spite of placement of guard rail, stop board light, and traffic red signal light, one TATA Sumo Type vehicle bearing Regn. No. WB40Y/6310 was coming at excessive speed towards the police party i.e. Kuli side from Futisanke side through Badsahi Road (SH-7). The said vehicle stopped in front of him and police party in a dangerous manner which may have caused an accident and loss of life of the police personnel engaged in NAKA checking duty on the spot. However, they managed to save themselves by jumping to the side of road. He found that a group of 7/8 young people were inside the vehicle, who got down (except driver) from the said TATA Sumo and jumped on him as well as other police personnel, caught their collar of the police uniform and assaulted them by fist and blows and tried to snatch one Govt. Body Camera which was clipped to his uniform. They received injuries but managed to detain 4 persons while 3/4 of them managed to escape from the spot taking advantage of the darkness. Immediately some people attached to the nearby dhaba also came to spot and witnessed the activities of those person who were deliberately refraining police to check their vehicle. After hot chase they were able to check the vehicle and found 3 identity

card of Army and GRP (Govt. Railway Police) in the name of some persons i.e. Palash Ghosh were lying on the dash board of said vehicle and also five numbers of Bangladeshi Currency of Rs.2/-, 20/-, 10/-, 100/-, 50/- and currency of Nepal Rs. 10/-, 50/-, and 500/- were lying on the said dash board of the vehicle. He interrogated the detained persons regarding their destination but they denied to say anything, rather they further started pushing the police party using slang languages, catching the uniform and tried to manhandle them in front of local people. Finding no other alternative and as they are injured, he arrested the above noted accused persons observing arrest rules and seized the involved vehicle and other articles as noted above which caused sufficient suspicion that the accused had noxious with international crime and they had illegal movement in different countries/procuring currency. He also asked the driver Pronab Mondal to produce driving license and other connected paper of the vehicle but the accused failed to produce the same.

On the basis of the aforesaid allegations/complaint, Burwan Police Station registered a case being Burwan Police Station Case No. 416/18 dated 03.12.2018 under Sections 341/186/332/353/419/379/511/34 of the IPC and Section 184/179 of the M.V. Act.

After completion of investigation the Investigation Officer submitted charge sheet being no. 159/19 dated 31.05.2019 under

Sections 341/186/332/353/419/511/34 of the Indian Penal Code against all the petitioners herein.

Mr. Pratip Kumar Chatterjee learned Counsel for the petitioner has submitted that there is no severe injury at all on the Police personnel, which will be evident from the charge sheet as there is no Doctor as witness and as such it is clear that the instant case has been instituted maliciously with some ill motive against the petitioners herein, only to harass the petitioners. As such, the charge sheet along with the proceedings herein should be set aside and/or quashed.

It is further submitted that, the guidelines laid down by the Supreme Court in the **State of Haryana Versus Bhajan Lal, 1992 Supp (1) SCC 335** are applicable in the instant case, and as such, the whole proceedings being FIR and the proceeding thereon should be set aside and/or quashed.

Hence the revision.

Ms. Rita Dutta learned counsel for the State has placed the case diary.

The materials in the case diary are as follows:-

- 1) The time of incident is 3.35 hrs (early morning).
- 2) The place of occurrence is a Naka checking point at Marut under Burwan P.S.

- 3) Several statements under Section 161 Cr.P.C. supporting the complainant has been recorded.
- 4) Medical papers of the victims.
- 5) Body camera of the check post police personnels.
- 6) The articles seized from the petitioners prima facie proving/ showing their presence at the place of occurrence.

Such occurrence (if proved) at a (security) checking point during the time of incident in this case, is a very serious matter as it also involves also the security of the personnels present on official duty in sensitive areas. The concerned authorities should take all necessary precautions to avoid any casualty/loss of life etc and ensure the safety of their staff.

Thus the said materials in the case diary make out a prima facie case of cognizable offences as alleged against the petitioners to go to trial and this is not a fit case where the inherent powers of this court should be exercised.

CRR 3327 of 2019 is thus dismissed.

There will be no order as to costs.

All connected Application stand disposed of.

Interim order if any stands vacated.

Copy of this judgment be sent to the learned Trial Court forthwith for necessary compliance.

Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)