

04.04. 2023
item No.8
n.b.
ct. no. 551

CRR 3373 of 2018

**Subrata Sarkar
Vs.
The State of West Bengal**

Mr. Amitesh Chakraborty,
..... for the Petitioner
Mr. Binoy Kumar Panda,
Ms. Pushpita Saha,
.... For the State.

The instant criminal revisional application has been preferred for quashing of FIR in connection with Khardah P. S. Case No. 270 of 2018 dated 01.4.2018 under Sections 341/323/325/506/34 of the IPC wherein charge-sheet No.253 of 2018 dated 30.4.2018 under Sections 341/323/506 of the IPC was submitted.

Learned advocate for the petitioner submitted before this Court that the instant criminal proceeding and the FIR were lodged by the de facto complainant who is the accused of an earlier case. He pointed out that the present petitioner lodged G.D being No.22 before the Khardha P.S., North 24 Parganas on 31.3.2018 contending, inter alia, that his brother Parthobroto Sarker while made toilet at the side of his shop at that moment the owner of the shop namely, New Pandit Motors that is Parvin Kumar Pandit assaulted his brother and used filthy languages. His brother was seriously injured when he went at the spot for save his brother, he also assaulted by Parvin kumar Pandit. On the basis of complaint of the present petitioner Khardha P.S. Case No. 268 dated 1.4.2018

under Sections 341/323/325/506 of the IPC was started. The brother of the petitioner was admitted in the hospital. After that incident, on 1/4/2018 the same accused, Parvin Kumar Pandit lodged another G.D. being No.38 before the Kardha P.S. contending, inter alia, that on March 31, 2018 at about 6.45 p.m. he and his staff were physically assaulted, injured, abused and threatened to their life by Parthobroto Sarkar and the present petitioner. On the basis of the complaint Kardha P.S. Case no.270 dated 1.4.2018 was started.

Learned advocate for the petitioner submits that the instant case is a false and counter-blast of the earlier police case. He again pointed out that police without conducting proper investigation submitted a charge-sheet before the jurisdictional Court. The present petitioner is an advocate of Calcutta High Court and he is no way involved in the alleged offence. He further argued that the FIR and evidences suggests no participation of the present petitioner in the alleged crime. He prayed for quashing of the entire criminal proceeding.

Learned advocate for the State appeared with the Case Diary and submitted before this Court that after initiation of the police case, the investigation was taken up and during the course of investigation police has collected sufficient materials including injury report from the Hospital. The statement of available witnesses was recorded under Section 161 of the Code of Criminal Procedure. He further submitted that from materials in the Case Diary, the offence punishable under Sections

341/323/325/506/34 of the IPC has been substantiated. Accordingly, the charge-sheet has been submitted.

Heard the learned advocates and perused the materials on record. On considering the Case Diary, it appears that two witnesses were examined by the I.O. and their statement was recorded under Section 161 of the Code of Criminal procedure. Both the witnesses stated the name of the present petitioner. The injury report collected by the police also disclosed the case of assault though the injury stated to be simple in nature.

Considering the entire circumstances, it appears that submission of charge-sheet under Section 323 IPC is sufficiently substantiated by collection of materials by the I.O. The merits of the statement of witnesses and their probative value thereof regarding the injury report can only be considered at the time of trial. At this juncture, I do not find merit to quash the entire initial proceeding. However, the instant criminal revisional application is being pending since 2018 and five years have already been passed. Thus, necessary direction is to be given to the learned Magistrate to conclude the trial as early as possible.

Accordingly, the instant criminal revisional application appears to be devoid of merits and dismissed.

The learned Magistrate is directed to dispose of the instant criminal case within September 2023 positively.

Accordingly, CRR 3373 of 2018 is disposed of.

Pending connected applications, if any, are disposed of.

Any order of stay earlier passed stands vacated.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)