

30.03.2023

Court No.35
Item No. 27

CRR 3326 of 2016
With
CRAN 6 of 2017 (Old No: CRAN 4974 of 2014)
With
CRAN 7 of 2017 (Old No: CRAN 5332 of 2017)
With
CRAN 11 of 2020 (Old No: CRAN 599 of 2020)

Ranjan Kumar Nayek
Vs.
State of West Bengal & Anr.

Mr. Ranadeb Sengupta,
Mr. Anindya Ghosh,
Mr. Apurba Ghosh.

... For the petitioners

Mr. Saryati Datta

... for the State

In this revision the petitioner has prayed for quashing of the criminal proceedings against him, i.e, Howrah G.R Police Station Case No. 146/16 dated 28.07.2016 under Section 3 (1) (x) of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

By referring to certain documents, Ld. Advocate on behalf of the petitioner Mr. Ranadeb Sengupta has submitted that this case is a result of malice and vengeance by the de facto complainant against the petitioner and that his client has been victimized by this way. It is submitted by referring to the general diary entry by the petitioner dated 28.06.2016 that the same was lodged by the petitioner to complain about manhandling and assault by the de facto complainant, of him, as he protested the late attendance of the de facto complainant on the particular day. During the course of argument Mr. Sengupta has

submitted that the de facto complainant is a habitual late comer and insincere employee. He has further referred to the complaint of the petitioner lodged before the Sr. Superintendent, R.M.S West Bengal Division, Howrah dated 28.06.2016, alleging against the de facto complainant of the self same mischief. Finally, Mr. Sengupta has referred to the FIR lodged by the Superintendent, R.M.S West Bengal Division, Howrah, alleging the said incident of 28.06.2016, against the de facto complainant.

It has also been submitted that before lodging of the FIR as above the preliminary enquiry was conducted pursuant to the complaint of the present petitioner, in which prima facie material as to the guilt of the de facto complainant was found and a formal departmental enquiry was recommended. It is submitted that pursuant to the same, the de facto complainant was immediately suspended.

Thus, it is submitted that, on the basis of all the prelude of lodging of the present FIR against the petitioner, it can be well construed that the criminal proceeding as this one is the result of wreaking vengeance against the petitioner by the de facto complainant and is not maintainable.

Mr. Datta appearing for the State has however raised strong objections to the contention and prayer of the petitioner, in this case. He has submitted the case diary in Court. He relies on some of the materials there from, to submit and point out to the Court that those, particularly witnesses statement, clearly shows as to how the de facto

complainant has been humiliated within public view, for the sole reason of his belonging to a schedule caste and by utterance of abusive remark naming his caste. It is submitted further that so far as the allegations against the petitioner in this case are concerned vide FIR dated 22.07.2016, a cognizable offence under the aforesaid provision of law has already been made out and thus the trial is to be proceeded to prove the said charges against the present petitioner. Mr. Datta has urged that this revision would not have any merit and may be dismissed.

Section 3 (1) (x) of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is as follows:-

“Section 3(1)(x)

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;”

Presence of the ingredients of offence as above, in the FIR and the other materials available would have been sufficient to maintain a criminal proceeding against the petitioner, had not there been found any indication and/or relevant material to show that the criminal proceeding is only the result of malice and vindictive attitude of the de facto complainant exposed against the accused person/petitioner in this case. The proposition laid down in the judgment of **Bhajanlal’s** case reported in **1992 Supp (1) SCC 335** by the Hon’ble Supreme Court may be referred to in this regard.

In this case it has been elaborated sufficiently that since for one month prior to lodging of this FIR, the parties were not at peace and

alleging manhandling and assault against the de facto complainant, the present petitioner filed complaint, preliminary enquiry was held as well as criminal proceeding was lodged. The petitioner as well as the Railways department, both have moved against the de facto complainant, departmentally and also by lodging FIR against him. Furthermore it is noticed that the present FIR has not sufficiently explained the reason for delay in filing the same with respect to the occurrence, which happened on 28.06.2016.

The de facto complainant has also brought a fact on record in the FIR, that his allegation against the present petitioner vide written complaint dated 14.03.2016 has not been ever acted upon by the Railway Authorities. The petitioner has however denied existence of any such complaint whereas the State has also not been able to throw any light upon the same. Excepting the averment in the FIR regarding existence of the written complaint dated 14.03.2016 alleged to have remained unattended, no other corroborating material has been relied on by the de facto complainant, like any reminder later or correspondence any furtherance thereto etc. Hence, its existence is doubtful.

Under such circumstances, even conceding to the submissions on behalf of the State, that the prima facie material exist against the petitioner in this case, one cannot lose sight of the fact that the de facto complainant was not in a good humor with his department and has faced punitive measures regarding his misdemeanor, previously. This provides sufficient reason to come to a conclusion that the present case,

that too lodged on behalf of the concerned employee by the All India Schedule Caste/Tribe and Backward Classes employee Co-ordination Counsel, is a result of grudge, malice and vengeance of the said employee/opposite party No.2. Such FIR which is malicious and revengeful, has been deprecated to have any force to maintain a proceeding against the accused person. If so, the proceeding would amount to gross abuse of the process of Court, which is however to be prevented by this Court in exercise of its inherent power under Section 482 Cr.P.C, 1973.

Accordingly facts and circumstances of this case being assets to the touch stone of the settled principles of law would lead to the finding that the present proceeding if allowed to the continued would amount to gross abuse of the process of Court as well as law. On perusal of the FIR and the other materials, it can also be found that the allegation against the petitioner is vague and non specific in nature. It does not project any prima facie cognizable offence against the petitioner as alleged in the said FIR, which has been lodged after about one month of the unexplained delay, from the date of alleged occurrence. For all these reasons this revision succeeds.

CRR 3326 of 2016 is allowed. G.R Police Station Case No. 146/16 dated 28.07.2016 under Section 3 (1) (x) of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (pursuant to G.R.P G.R No. 193/2016) is pending before the Ld. Chief Judicial Magistrate at Howrah, be quashed and set aside.

Case diary be returned.

Connected applications being CRAN 6 of 2017 (Old No: CRAN 4974 of 2017) with CRAN 7 of 2017 (Old NO: CRAN 5332 of 2017) with CRAN 11 of 2020 (Old No: CRAN 599 of 2020) are disposed of.

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

(Rai Chattopadhyay, J.)