

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 3616 of 2019

Krishna Gopal Das

Vs

The State of West Bengal & Ors.

For the Petitioner : Mr. Suman De,
Mr. Abhinava Mukherjee.

For the State : Mr. Bidyut Kr. Ray,
Ms. Rita Dutta.

For the Opposite Party : Mr. Supriya Chattopadhyay,
Mr. Sudip Kr. Maity.

Heard on : 23.02.2023

Judgment on : 22.03.2023

Shampa Dutt (Paul), J.:

1. The present revision has been preferred against an order dated 10.07.2019 passed by the Learned Additional Chief Judicial Magistrate, Contai in G.B Case No. 793/2019 arising out of Bhupatinagar Police Station Case No. 57/2019 dated 01.06.2019 under Sections 447/325/468/506/34 of the Indian Penal Code.
2. The petitioner's case is that on the basis of a petition of complaint lodged under Section 156 (3) of the Code of Criminal Procedure before the Learned Additional Chief Judicial Magistrate, Contai being M.P. Case No. 75/2019 dated 05.04.2019, Bhupatinagar Police Station case No. 57/2019 dated 01.06.2019 under Section 447/325/468/506/34 of the Indian Penal Code was started against the petitioner.
3. The averments made in the petition of complaint were to the effect on 01.10.2018 the complainant/petitioner, currently posted with 41 Medium Regiment (KARGIL) proceeded on leave from Dehradun to his home town. He was handed over pamphlets by some unknown persons at Behrampur More, near Analberia Village, Purba Medinipur. He was told to handover the pamphlets to one Mr. Paritosh Pradhan. As instructed he handed over the same to Mr. Paritosh Pradhan without going over the contents. On the same day about thousands of those leaflets were distributed in the Village. The pamphlet allegedly contained some unfounded facts about the Village Committee.

4. On hearing this, the Village Committee members namely Mr. Debasish Panda and few others reached the petitioner's house and threatened him. The petitioner later in the evening presented himself to the Village Committee and accepted his mistake of unknowingly handing over the Pamphlets to Mr. Paritosh Pradhan and stated that he had no knowledge of as to who had distributed the pamphlets to others.
5. However, the village Committee did not listen to the petitioner's plea and forced him to donate 10 kattah of his land to the Committee. After this incident, later in the night, when the complainant/petitioner returned home, a group of 10 persons led by Debasish Panda attacked him at his house and injured him. They also forced him to surrender 10 kattah of his land and got it registered in the name of Dhananjay Bera. The mob also threatened to kill the complainant/petitioner and his family members.
6. On completion of investigation, the Investigating Officer submitted charge-sheet against 1) Ashok Bera 2) Bikash Barik 3) Rashbehari Sahoo 4) Bhola Bera 5) Prabhat Das 6) Bhanu Das 7) Bulu Maity 8) Amylya Sahoo being charge sheet no. 61/2019 dated 30.06.2019 under Section 447/325/506/34 of the Indian Penal Code.
7. On 10.07.2019 after receiving the charge sheet and relevant documents as well as the case dairy the Learned Additional Chief

Judicial Magistrate, Contai took cognizance of the offence. Accused Debasish Panda and Dhananjay Bera were not charge-sheeted.

8. **Mr. Suman De, learned counsel for the petitioner** has submitted that in the petition of complaint there is specific allegation against accused Debasish Panda and Dhananjay Bera for committing offence under Section 468/325 of the Indian Penal Code. But the Investigating Officer mechanically investigated the instant case and did not seize the deed which was forcibly registered in the name of Dhananjay Bera.
9. It is further submitted that accused Dhananjay Bera got the plot of land registered vide a Gift deed No. 8154 dated 05.10.2018 but the Investigating Officer did not investigate the case properly and did not make an attempt to seize the registered deed and also did not enquire into the matter in any manner whatsoever.
10. **Mr. De** has further submitted that **the petitioner filed a Title Suit being No. 177/2019 before the Learned Civil Judge, (Junior Division) 2nd Court, Contai against the accused Dhananjay Bera for declaration with consequential relief and permanent injunction.**
11. Vide order dated 10.07.2019 the Learned Additional Chief Judicial Magistrate, Contai mechanically took cognizance without applying judicial mind.
12. It is submitted that for the ends of justice the Learned Magistrate should have given a direction for further investigation in connection

with the present case and as such the impugned order 10.07.2019 passed by the Learned Additional Chief Judicial Magistrate, Contai is bad in law and liable to be set aside.

13. **Mr. Supriya Chattopadhyay, learned counsel for the opposite party no. 2 and 3** has submitted that the investigation in this case has been done in accordance with law and as such the revision is liable to be dismissed.

14. **Mr. Bidyut Kr. Ray, learned counsel for the State** has placed the case diary.

15. **From the materials on record** the following facts are before the court:-

- a) The opposite party no. 2 and 3 have been named in the application under section 156(3) Cr.P.C.
- b) The opposite party no. 2 and 3 have not been named in any of the statements under section 161 Cr.P.C.
- c) They have also not been named in the injury report of the petitioner.
- d) The application under section 156(3) Cr.P.C. was filled on 05.04.**2019** relating to an incident dated 02.10.**2018**. Injury Report is dated 03.10.2018.
- e) The complaint under section 156(3) Cr.P.C. was filed six (6) months after the incident.

f) Title suit 177/19 has been filed on 27.05.2019 in respect of the alleged gift deed against a debutter represented by the opposite party no 3.

16. The present case is against the opposite party no. 2 and 3, who have not been charge sheeted, with a prayer for further investigation.

17. From the materials on record it is seen that none of the ingredients required to constitute the said offences are prima facie present in the case diary in respect of the opposite party No. 2 and 3.

18. There is no material on record against the opposite party No. 2 and 3 to make out a prima facie case of cognizable offences against them as alleged and as such the present revision is liable to be dismissed as the order under revision is in accordance with law and needs no interference by this court and there is no reason or materials on record to order further investigation in this case.

19. There was also no prayer under Section 173(8) Cr.P.C. filed by the petitioner before the Learned Magistrate.

20. **CRR 3616 of 2019 is dismissed.**

21. There will be no order as to costs.

22. All connected Application stand disposed of.

23. Interim order if any stands vacated.

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

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

(Shampa Dutt (Paul), J.)