

27.04.2023

BP
Sl.14
Court No.236

CRR 4023 of 2011

In the matter of : Smt Soma Das ..petitioner

Mr. Subhasish Ray
.. for the petitioner

Heard Mr. Subhasish Ray, learned counsel for the petitioner.

The petitioner by filing an application under Section 482 is seeking an order of quashment of the proceeding being C-20826 of 2011 under Section 500 of the Indian Penal Code pending before the learned Metropolitan Magistrate, 8th Court, Calcutta including the order dated 18th August, 2011, 30th August, 2011 and 30th September, 2011 passed by the learned Trial Court.

It is contended by Mr. Ray that the opposite party no.2 Abhijit Sircar, who happens to be the son of Badal Sircar, filed the petition of complaint under Section 500 CrPC against the petitioner, who used to take care of his father for last sixteen years till he passed away, alleging inter alia that by making

frivolous allegations the petitioner became instrumental in lowering down his prestige. Drawing my attention to the petition of complaint Mr. Ray adverted that there is no whisper within four corners of the petition so demonstrate any imputation that would justify the action of the learned Trial Court to take cognizance and to issue process upon the petitioner.

My attention is drawn to the copy of the written information given by the petitioner Soma Das to the Officer-in-Charge, Bar Tala Police Station and upon perusal of the record, I find that the petitioner informed the police that Badal Sarkar died an unnatural death, to be more specific, he was murdered by his son and daughter. On 12th September, 2011 they criminally intimidated the informant. Paragraph 20 of the petition of complaint has reference to various newspapers containing the statement of the petitioner Soma Das. Newspaper reports are not before this court. True it is in order to constitute an offence of defamation as provided under Section 499 of the IPC there has to have an imputation and such imputation shall have to be made with the intention of harming the reputation of the person. Though the newspaper reports, have not

been annexed to the petition under consideration, the information given to Police, is sufficient to create an impression about the mens rea of the petitioner to cause harm to the reputation of the opposite party.

Under such circumstances, I do not consider it apt to invoke the provision of Section 482 of the Code of Criminal Procedure to quash the proceeding. Consequently, the petition stands dismissed.

Interim order, if any, stands vacated.

A copy of this order be sent down to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)

