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17.05.2023

Ct. No.236

CRR 4211 of 2011
CRAN 1 of 2012 (Old No.CRAN 1237 of 2012)

In the matter of:- Subhasish Indu & Ors.

...petitioners

Mr. Akmam Khan,
Mr. Pronojit Roy.
....for the petitioners.

Mr. Bidyut Kr. Roy,
Ms. Rita Datta.
...for the State.

Affidavit of service filed in Court is taken on record.

Heard Mr. Akmam Khan learned counsel representing the
petitioners and Mr. Bidyut Kumar Roy, learned counsel representing the
State.

This is an application under Section 482 of the Code of Criminal
Procedure seeking an order of quashment of the criminal proceeding in GR
Case No.401 of 2011 pending before the learned Judicial Magistrate, 1st
Court, Barasat, North 24-Parganas under Section 186/353/406/34 of the
Indian Penal Code read with Section 34 of the Police Act arising out of
Barasat P.S. Case No.165 of 2011.

Briefly stated, SI, Rabindranath Ghosh, set a criminal proceeding
into motion by informing the Inspector-in-Charge of Barasat Police Station in
writing, inter alia that, on 24th January, 2011, while he was discharging mobile
duty, he received an information from duty officer of Barasat Police Station
that behind the bungalow of Superintendent of Police, some persons were
playing mike and he was directed to seize the said mike. After arriving at the
place of occurrence, he talked to the members and secretary of Mayitri
Sangha but they prevented the police personnel from removing the loud
speaker and applied criminal force even threatened them. The secretary told

that they would gheraoed the local police station. Based on such information, Barasat Police Station Case no.165 of 2011 was registered. Police took up investigation which culminated into submission of charge sheet against the accused persons.

It is submitted by Mr. Khan that the local club members were observing Rabindra Jayanti and there is no indication that loud speaker was being played or used flouting the permissible sound limit. Only fault on the part of the petitioners was that the loud speaker was being played behind the bungalow of Superintendent of Police. No GD Entry was registered nor FIR was lodged.

The alleged incident took place on 24th January, 2011 and not in the month of May when Rabindranath was born. Charge sheet has been filed. There is every reason to presume prima facie that there is ingredient of offence within the meaning of the penal Code committed by the accused persons.

I do not find any reason to quash the proceeding only because it was initiated by the police personnel. In my opinion, there is no abuse of process of law.

In such circumstances, I am not inclined to quash of the revisional application.

The revisional application and the application being CRAN 1237 of 2012 are dismissed.

Interim order of stay, if any, stands vacated.

Learned Trial Court is directed to proceed with the trial of the case as expeditiously as possible.

Copy of the order sheet be sent down to the learned Trial Court for information and necessary action.

Urgent photostat certified copy of this order may be supplied to the

parties expeditiously, if applied for.

(Siddhartha Roy Chowdhury, J.)