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24.01.2023
Ct. No.
236

CRR 4584 of 2009
IA No. CRAN 1 of 2010 (Old No. CRAN 2881 of 2010)

In the matter of:- Talha Ahsan & Anr. ...petitioners

Mr. Rahul Ganguly.
...for the petitioners.

This application under Section 482 of the Code of Criminal Procedure, 1973 is the manifestation of displeasure of the petitioner, who has been arrayed as accused person in a case pending before the learned 4th Court of Metropolitan Magistrate, Calcutta at the behest of the opposite party No.2.

Briefly stated, the petitioner no.1 and the opposite party No.1 are the full blood brothers, and the petitioner No.2 is the nephew of opposite party No.2.

Opposite party No.2 Mr. Shoaib Ahsan Rommi filed a petition on complaint before the learned Chief Metropolitan Magistrate, Calcutta against his brother and nephew on 17th March, 2008. Learned Trial Court examined the complainant and witnesses under Section 200 of the Code of Criminal Procedure, and was pleased to issue process calling upon the accused persons to surrender to the jurisdiction of the learned Trial Court.

Mr. Rahul Ganguly, learned counsel appearing for the petitioners submits that the dispute is absolutely civil in nature, the complainant went to the shop of his brother and demanded statement of account, else the key of the shop room. The accused persons, it is alleged, had been to the office of the compliant on the

following date, where an altercation took place, which ended up, according to the complainant, with an unexpected climax, when he was beaten up by his brother and nephew. According to learned counsel for the petitioners, the narrative of the complainant prima facie indicates lack of truth. It should have been considered by learned Trial Court with a big grain of salt. Considering the narrative of the complainant from the point of view of human probability, as well as from the legal aspect, learned Trial Court ought to have dismissed the petition of complaint under Section 203 of the Code of Criminal Procedure, as a civil dispute was given the colour of criminality.

I have perused the statement recorded by the learned Trial Court which under Section 200 Cr.PC. The statement made by the complainant and his witnesses on solemn affirmation justifies the order passed by the learned Trial Court, directing process upon the accused persons. Though learned counsel for the petitioners submits that a Title Suit is pending before the 7th Judge, City Civil Court, Calcutta being Title Suit No. 3794 of 2009 over the issue of partnership business, at this zygotic stage when compliant was successful in making out the prima facie case to proceed against the accused persons, I do not consider it fit to exercise my inherent jurisdiction under Section 482 of the Code of Criminal Procedure to quash the proceeding.

It is needless to say that this order will not prevent the petitioners to take the points agitated before this court during trial.

With this observation, the revisional application stands disposed of along with applications, if any.

There shall be no order as to costs.

Urgent certified photostat copy of this order, if applied for, shall be given to the appering parties as expeditiously as possible on compliance of all necessary formalities.

(Siddhartha Roy Chowdhury, J.)