

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 1366 of 2020

With

CRAN 1 of 2020

Surajit Hazra

Vs

State of West Bengal & Anr.

For the Petitioner : Mr. Anirban Dutta,
Mr. Debabrata Das,
Mr. Pradyut Kr. Das.

For the State : Ms. Sujata Das.

For the Opposite Party No. 2 : Mr. Tapan Dutta Gupta,
Mr. Parvej Anjam.

Hearing Concluded on : 29.11.2023

Judgment on : 06.12.2023

Shampa Dutt (Paul), J.:

1. The present revisional application has been preferred praying for quashing and/or setting aside of the proceedings in connection with Bolpur Police Station Case No. 201 of 2020 dated 16th August, 2020 under Sections 341, 325, 506 and 34 of the Indian Penal Code, presently pending before the Court of the Leaned Additional Chief Judicial Magistrate at Bolpur.
2. The petitioner states that the instant proceedings is a counter blast which has been made at the behest of the defacto complainant/opposite party No. 2 above named, to misguide the investigation in Bolpur Police Station Case No.163 of 2020 dated 11th July, 2020 initiated on the basis of the letter of complaint made by the petitioner.
3. The petitioner states that adjacent to the property of the petitioner, the Opposite Party No.2 runs a grocery shop. That over substantial period of time the Opposite Party no.2 with an intention to cause disturbance and nuisance in the said area intentionally causes disturbance in the said society by parking the vehicles unloading in front of the house/property of the petitioner and around the Area which causes huge commotion. It further causes difficulty in ingress and egress of the petitioner. That the Opposite Party no. 2 for a long period of time has a personal grudge against the petitioner and his family and hates them since they belong to Scheduled Caste. The Opposite Party No.2 and his men and agent have

also threatened the petitioner every now and then, in order to compel the petitioner to leave the place.

4. It is also submitted that the petitioner has requested the Opposite Party No. 2 to not block the ingress and egress of the petitioner with such heavy vehicle even after unloading products of the shop. However, the Opposite Party No. 2 never paid any heed to such request of the petitioner and continued to create such nuisances in and around the said place over a period of time.
5. On 5th June, 2020 at around 8.30 a.m./9.00a.m. in the morning when the petitioner opened his door to leave for a medical emergency, the petitioner saw that his entrance has been blocked by a vehicle kept by the Opposite Party No. 2.
6. On making a complaint to the Opposite Party No. 2 against such act of nuisance, the Opposite Party No. 2 got infuriated and the Opposite party No. 2 along with his brother, Raj Kumar Shaw came out of the shop and started heckling the petitioner by holding his shirt collar.
7. On protesting such acts of the Opposite Party No. 2 and his brother, the petitioner was thereafter severely assaulted by the said miscreants by kicks and blows on the face of the petitioner and in other body parts of the petitioner. That due to such assault, the petitioner sustained a deep cut injury over his right eye which caused bleeding injuries. The petitioner states that due to such injury, the petitioner fell on the ground, being unconscious and subsequently on intervention of local

people, the petitioner was taken to the police station and thereafter to the PHC Hospital on instructions of the police officer. The petitioner states that considering the injury, the petitioner was referred to the SD Hospital where a CT Scan was conducted and the petitioner was referred to an eye specialist.

- 8.** On recovering from the injury and trauma the petitioner filed a complaint stating the whole fact on 8th June, 2020.
- 9.** The petitioner has further submitted that in spite of such grievous act of public nuisance and causing grievous injury and also attempting to cause graver injury to the petitioner and an attempt to murder the petitioner, the Officer-In-Charge, Bolpur Police Station refused to register the case and investigate. Since the Officer-In-Charge. Bolpur Police Station failed to register a case despite the complaint disclosing serious cognizable offences, being committed by the accused, due to political influence of the Opposite Party No. 2, the petitioner was compelled to prefer a writ application before the High Court stating the inaction on the part of the police authority to register the case and investigate the matter.
- 10.** Immediately after filing of the said Writ Application, the Officer-In-Charge, Bolpur Police Station promptly registered a case under Sections 341, 325, 506 and 34 of the Indian Penal Code vide Bolpur Police Station Case No. 163 of 2020 dated 11th July, 2020 but investigation was not embarked upon immediately.

11. In spite of registration of the First Information Report, the investigating agency refused to accept the medical documents and cause an appropriate investigation in the complaint of the petitioner in accordance with law.
12. In the aforesaid backdrop, the present case (which is a counter case) has been lodged against the petitioner being Case No. 201 dated 16th August, 2020 the relating to the incident dated 5th June, 2020.
13. The learned counsel for the Opposite Party No.2 has submitted that both the case and counter case be heard by the trial Court in the Interest of Justice.
14. Learned counsel for the state has placed the Case Diaries of both the cases.
15. **Considering the materials on record, it is evident that:-**
 - i) The present case being Bolpur P.S. Case No. 201/20 was instituted by the Opposite Party No.2 **on 16.08.2020** relating to an **incident dated 05.06.2020** under Sections 34/325/506/34 of the Indian Penal Code.
 - ii) Charge Sheet in this case has been filed on 30.08.2020 (with 15 days) of filing of the Complaint.
 - iii) Admittedly Bolpur P.S. Case No. 163/2020 was filed by the petitioner against the Opposite Party No. 2 on 11.07.2020 relating to the same incident dated 05.06.2020 (almost one month before the registration of the present case).

- iv) The said case is still pending Investigation (as there is no Charge Sheet in the Case Diary) **in spite of it being the prior case** and there also being an injury report at page 26 of the Case Diary.
- v) **Page 34 to 39 of the revisional application are medical papers including a CT Scan of Facial Bone Report dated 06.06.2020, showing that the petitioner had suffered a fracture.**
- vi) **It is submitted that the said documents were not received by the Investigating Officer.**
- vii) The case diary in the present case being Bolpur Police Station Case No. 201 of 2020 dated 16.08.2020 under Sections 341, 325, 506 and 34 of the Indian Penal Code, contains no materials to prima facie make out a case against the petitioner for the offences alleged. There are also no medical papers in the case diary. **The case has also been filed two and half months after the incident, which is clearly an afterthought and thus an abuse of process of law.**

16. In spite of there being no materials/evidence prima facie against the petitioner in respect of the offences alleged, Charge Sheet has been submitted against the petitioner on a Complaint of the Opposite Party No. 2 within 15 days in spite of the Complaint being filed after almost two and a half months.

17. This conduct on the part of the Investigation agency is clearly an abuse of the process of law and thus, this is a fit case where the interference of this court is required by invoking its inherent jurisdiction in the interest of Justice.
18. **CRR 1366 of 2020 is accordingly allowed.**
19. The proceedings in connection with Bolpur Police Station Case No. 201 of 2020, under Sections 341,325,506 and 34 of the Indian Penal Code, presently pending before the Court of the Learned Additional Chief Judicial Magistrate at Bolpur **is hereby quashed.**
20. **In the interest of justice the Superintendent of Police, Birbhum shall inquire into the progress in the Investigation of Bolpur P.S. Case N. 163/2020 dated 11.07.2020 filed by the petitioner against the opposite party no. 2 and others (if any) and take necessary steps in accordance with law.**
21. All connected applications, if any, stand disposed of.
22. Interim order, if any, stands vacated.
23. Copy of this judgment be sent to the learned Trial Court for necessary compliance.
24. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)