

06.12.2023

Sl. No.: 46

Court No.30

BM

CRR 1706 of 2020

Debnath Sadhukhan

Vs.

Sri Rabindranath Bhattacharyya

Mr. Sabir Ahmed
Mr. Tasnim Ahmed
Ms. Suman Biswas
Mr. Soham Chakraborty

... for the petitioner

Mr. Arijit Ganguly
Mr. Sanjib Kumar Dan

... for the State

Mr. Koustav Bagchi
Mr. Debayan Ghosh
Ms. Priti Kar

... for the opposite party

Heard the learned counsel for the petitioner and the learned counsel for the opposite party in presence of the learned counsel for the State.

A report as called for dated 28.12.2021 filed by the Joint Commissioner of Police(Crime), Barrackpore Police Commissionerate is on record.

The present revisional application has been preferred praying for quashing of the proceedings, being C. Case No.93 of 2020, pending in the court of the learned 1st Judicial Magistrate at Barrackpore, North 24-Parganas under Sections 188/341/120B/500/504/506/ of the Indian Penal Code, 1860.

The petitioner no.3 herein is an accused in the petition of complaint before the trial court and was the Officer-in-Charge of Barrackpore Police Station on the date of incident.

The opposite party no.2 has filed the present case against the petitioner and other private accused persons with whom the opposite party no.2 has a long standing dispute.

The opposite party no.2 has submitted that he is the President of Barrackpore Deviprasad High School and that on the date of incident i.e. 26th January, 2020 when he was to hoist the National Flag the petitioner along with other accused persons assaulted him and also threatened him with dire consequence.

It is on record that a title suit filed by the opposite party is pending.

It has been alleged in the written complaint that on 26.01.2020 at 10.30AM when the complainant was going to attend the Flag Hoisting Ceremony, the accuseds no.1 and 2 restrained him from entering the School campus and all on a sudden the accused no.3(petitioner herein) came to the spot and without reason misbehaved with him and also outraged the modesty of family, guardian by using slang language. Hence, the present case.

On perusal of the report on record filed by the Joint Commissioner of Police, it appears that one Abhijit Majumder, the accused no.1 before the trial court apprehending that the opposite party no.2/complainant herein might create nuisance informed the Barrackpore Police Station, on the basis of which Barrackpore Police Station General Diary No.1094 was registered and accordingly, acting upon such information and on the basis of said General Diary and on being informed by RFF Officer S.I Tarun Guha Neogi, who had been posted at place of occurrence as a trouble was apprehended in presence of political workers, the

petitioner/accused persons no.3 being the Officer-in-Charge, Barrackpore Police Station reached the place of occurrence and proceeded in exercise of his official duty to maintain law and order.

It has been categorically stated in the report filed that the petitioner/accused no.3 being the Officer-in-Charge of Barrackpore Police Station was on official duty at the time of incident on 26.01.2020 at Deviprasad High School premises (place of occurrence).

Considering the said fact and the materials on record, the proceeding against the present petitioner is a clear abuse of process of law and in the interest of justice is liable to be quashed.

Accordingly, the proceeding being C. Case No.93 of 2020, pending in the court of the learned 1st Judicial Magistrate at Barrackpore, North 24-Parganas under Sections 188/341/120B/500/504/506/ of the Indian Penal Code, 1860, is hereby quashed.

The Criminal Revision being CRR 1706 of 2020 is accordingly disposed of.

All connected applications stand disposed of.

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

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

(Shampa Dutt (Paul), J.)