

IN THE HIGH COURT AT CALCUTTA

Circuit Bench at Jalpaiguri

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 89 of 2021

Sri Naveen Agarwal @ Navin Agarwal & Ors.

Vs.

State of West Bengal & Anr.

For the Petitioners

: Mr. Partha Sarathi Das,
: Mr. Bikash Singha.

For the State

: Mr. Aditi Shankar Chakraborty,
: Mr. Aniruddha Biswas.

Hearing concluded on

: 10.10.2023

Judgment on

: 16.10.2023

Shampa Dutt (Paul), J.:

1. The present revision has been preferred praying for quashing of the entire criminal proceedings arising out of Bhakti Nagar Police Station Case No. 837/2020 dated 26/09/2020 under Sections 341/323/506/509/34 of Indian Penal Code read with Section 25(I)(a)/27 of Arms Act corresponding to G.R. Case No. 4205 of 2020, ended in Charge sheet No. 18/2023 dated 28/01/2023 u/s 341/323/506/509/34 IPC pending before the Chief Judicial Magistrate Jalpaiguri, District-Jalpaiguri.
2. The State has placed the case diary.
3. **From the materials in the case diary and the written complaint of the opposite party/complainant it appears that the parties are residents of the same apartment and the dispute is regarding non-payment of maintenance by the complainant and the allegations that the petitioners alleged that the complainant indulged in 'goonship'/gunda gardi.**
4. The statement of the complainant that he was allegedly shown a revolver by accused Badshah Roy has also not been substantiated. As seen from materials on record and the case diary including the charge sheet, no such arms could be recovered from the possession of the said accused.
The dispute herein is clearly a private civil dispute.

5. The Supreme Court in ***Randheer Singh Vs. The State of U.P. & Ors., Criminal Appeal No. 932 of 2021 with Criminal Appeal No. 933 of 2021, on 02.09.2021***, held:-

“23. Even though an FIR need not contain every detail, an offence has to be made out in the FIR itself. It is the case of the Private Respondents that Bela Rani has no title. Bela Rani executed a false Power of Attorney in favour of Rajan Kumar (since deceased). Alternatively, the Power of Attorney, in itself, was a forged document.

33. In this case, it appears that criminal proceedings are being taken recourse to as a weapon of harassment against a purchaser. It is reiterated at the cost of repetition that the FIR does not disclose any offence so far as the Appellant is concerned. There is no whisper of how and in what manner, this Appellant is involved in any criminal offence and the charge sheet, the relevant part whereof has been extracted above, is absolutely vague. There can be no doubt that jurisdiction under Section 482 of the Cr.P.C. should be used sparingly for the purpose of preventing abuse of the process of any court or otherwise to secure the ends of justice. Whether a complaint discloses criminal offence or not depends on the nature of the allegation and whether the essential ingredients of a criminal offence are present or not has to be judged by the High Court. There can be no doubt that a complaint disclosing civil transactions may also have a criminal texture. The High Court has, however, to see whether the dispute of a civil nature has been given colour of criminal offence. In such a situation, the High Court should not hesitate to quash the criminal proceedings as held by this Court in Paramjeet Batra (supra) extracted above.

34. The given set of facts may make out a civil wrong as also a criminal offence. Only because a civil remedy is available may not be a ground to quash criminal proceedings. But as observed above, in this case, no criminal offence has been made out in the FIR read with the Charge-Sheet so far as this Appellant is concerned. The other accused Rajan Kumar has died.”

6. **Though it is submitted that the matter has been amicably settled there is no petition/application to that effect. The opposite party**

no. 2 has also not appeared at the time of final hearing, though they appeared before this Court on 07.08.2023.

- 7. The present proceeding is clearly an abuse of process of Court/law and is thus liable to be quashed.**
- 8. CRR 89 of 2021 is allowed.**
- 9.** The proceedings arising out of Bhakti Nagar Police Station Case No. 837/2020 dated 26/09/2020 under Sections 341/323/506/509/34 of Indian Penal Code read with Section 25(I) (a)/27 of Arms Act corresponding to G.R. Case No. 4205 of 2020, ended in Charge sheet No. 18/2023 dated 28/01/2023 u/s 341/323/506/509/34 IPC pending before the Chief Judicial Magistrate Jalpaiguri, District-Jalpaiguri **is hereby quashed.**
- 10.** All connected applications, if any, stand disposed of.
- 11.** Interim order, if any, stands vacated.
- 12.** Copy of this judgment be sent to the learned Trial Court for necessary compliance.
- 13.** Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)