

8.

September 26, 2023.

GSD

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRR 135 of 2021

In the matter of: Baleshwar Prasad Sah & Anr.

.... Petitioners

Mr. Jagriti Mishra
Mr. Reshab Kumar
Mr. Subham Gupta
Ms. Ananya Bhattacharya
Mr. Raj Kumar Mitra
Ms. Mrinmayee Das

... for the petitioners

Mr. Aditi Sankar Chakraborty
Mr. Nilay Chakraborty

... for the State

Mr. Sourav Chatterjee
Mr. Soumya Nag

... the O.P. No.4

The present revisional application was preferred challenging the continuance of the proceedings of NJP P.S. Case No. 29 of 2020 dated 10.1.2020 at the instance of the present petitioners.

Ld. Advocate for the State produces the Case Diary.

I find from the case diary that charge-sheet has been filed after completion of investigation against the present petitioners. The petitioners approached this Court on the same day when the charge-sheet was submitted before the jurisdictional Court. But such submission of charge-sheet was not within the knowledge of the present petitioners.

Ld. Advocate for the petitioners submits that the allegations and the subject-matter are same in two cases being

NJP P.S. Case No. 29 of 2020 and NJP P.S. Case No. 32 of 2020.

According to the Ld. Advocate both the cases have been initiated in a mala fide manner as a counter-blast to the civil case when the complainant failed to obtain the order of injunction from the civil court.

Mr. Chatterjee, Id. Advocate appearing on behalf of the private opposite party opposes such contentions.

Ld. Advocate for the State has submitted that as the charge-sheet has already been submitted before the jurisdictional Court, the revisional application in its present form is only restricted to the FIR, may not be considered by this Court.

I find sufficient force in the submission of the Ld. Advocate for the State.

In view of the charge-sheet being submitted, there has been change of circumstances. Accordingly, the petitioners are granted liberty to approach this Court after receipt of the documents under Section 207 of the Cr.P.C. Alternatively, the petitioners would be also at liberty to take out an application under Section 239 of the Cr.P.C. and the Id. Magistrate would dispose of the same in accordance with law without being influenced by any of the observations made by this Court while dealing with the present revisional application.

With the aforesaid observations, CRR 135 of 2021 is disposed of.

Pending application(s), if any, is also disposed of.

As in CRR 49 of 2023, there has been a direction by the Ld. Magistrate to follow the guideline regarding the correctness of the charge-sheet, which has been submitted. The documents under Section 207 of the Cr.P.C. would be supplied to the petitioners only after the issue relating to further investigation and/or cognizance is decided by the Id. Magistrate.

Parties shall act on the server copy of this order, duly collected from the official website of the Hon'ble High Court, Calcutta.

(Tirthankar Ghosh, J.)