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15.05.2024
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C.R.R.73 of 2024

In Re: An application under Section 482 read with Section 401 of the
Code of Criminal Procedure, 1973;

Hirak Mukherjee and another
Versus
The State of West Bengal and another

Mr. Navanil De
Mr. Rajeshwar Chakraborty
Mr. Subhrajit Dey
Ms. Monami Mukherjee.
...for the petitioners.

Mr. Debasish Roy, Ld. P.P.
Mr. Arijit Ganguly
Mr. Asif Dewan.
...for the State.

Mr. Samrat Choudhury
Mr. Harish Kr. Singh.
...for the opposite party no.2.

Petitioners have challenged the charge-sheet submitted
in connection with Haridevpur Police Station Case No.433 of 2023
dated 15.09.2023 under Sections 34/153A/295A/506 of the Indian
Penal Code.

The brief facts of the case as narrated in the report under
Section 173 Cr.P.C. is as follows:-

“The instant case was recorded on the basis of a
letter of complaint submitted by the complainant.

The brief fact of the case is that sometime on and
after 29.07.2023, the FIR named accused persons namely
Mr. Hirak Mukherjee and Suvajit Ganguly, both are the

residents of Shankhmani Apartment, living and situated at 338, Motilal Gupta road, P.S.-Haridevpur, Kolkata-700082, in furtherance of their common intention continuously threatening the committee members of Shankhmani Apartment, with a view to promote enmity between different groups on grounds of religion and with intent to outrage religious feelings.

In the course of investigation both the FIR-named accused persons surrendered themselves before the court of Ld.ACJM at Alipore. They are in C.B. till 18.11.2023. During the investigation visited the P.O. of the case. Examined the witnesses and recorded their statements as per the provision laid down U/S-161 of the Cr.P.C. in separate sheets of paper.

In the course of the investigation served the complainant with a notice U/S-91 of the Cr.P.C. and collected documents relevant to the case.

During the investigation, sufficient evidence was collected against the FIR-named accused persons. Prima facie a case U/S/-34/153A/295A/506 of the I.P.C. has well been established against the FIR named accused persons and they may go for facing the trial.”

The investigating authority relied upon four witnesses in order to prove its case which included Sayan Roy, Nilambar Saha, Madhumita Sengupta and the investigating officer of the case. I have considered the thread of allegations which related to a housing

complex named Shankhmani Apartment. The issue and counter issue are related to organizing puja festival on the one hand and on the other hand relating to the organizing committee or the body organizing puja being elected committee.

Having considered the statements which have been relied upon and the issue relating to dispute, I am of the view that the genesis of the case fails to make out any offence under the provisions of Section 153A or Section 295A of the Indian Penal Code. Accordingly, the report under Section 173 Cr.P.C. so filed in connection with Haridevpur Police Station Case No.433 of 2023 dated 15.09.2023 is hereby quashed. However, the complainant will be at liberty to pursue his grievance by way of filing an application under Section 200 of the Code of Criminal Procedure before the appropriate forum.

Accordingly, CRR 73 of 2024 is allowed.

Case diary be returned to the learned advocate appearing for the State.

Pending connected application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)

