

22-02-2024
Subha
Item no. 77
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 607 of 2024

Gopal Sau @ Gopal Sahoo & Ors.
-versus-
State of West Bengal and anr.

Mr. Ayan Basu
Mr. Sourav Bera
Mr. Sumit Routh

....for the petitioners.

Petitioners have challenged the continuance of Panskura Police Station Case No. 0106 of 2024 dated 01-02-2024 which has been registered for investigation under Sections 323/325/341/354/379/506/34 IPC and Ss.3(1)/r/s of the Scheduled Casts and Scheduled Tribes(POA) Act, 1989.

Mr. Basu, learned advocate appearing for the petitioners submits that the present case is a counter case to the initial FIR which was lodged at the instance of one Namita Singh being registered as Panskura P. S. Case No. 92 of 2024. The date of the offence, the proximity of time are same and the accused persons who have been named therein by way of exaggerating a fresh set of facts have used the wife of the accused no.1 namely Kabita Singh wife of Surajit Singh for initiating the instant case.

It has been emphasized that the instant case has political overtones and the same was subsequently registered by malafidely invoking the provisions of SC & ST(POA) Act, 1989 for utilizing the stringency attached to the said provisions.

Learned advocate relies upon the judgement of the Hon'ble Supreme Court in *Hitesh Sharma vs State of Uttarakhand and Anr.*, reported in (2021) 1 SCC(CRI) 1 and *Ramesh Chandra Vaishya vs State of Uttar Pradesh and Anr.*, reported in 2023 SCC OnLine SC 668.

The present case is one where the investigation of the case has commenced for just 20 days, the judgement so relied upon are cases where chargesheet was submitted before the jurisdictional court. As such at this stage in order to appreciate either the truth or falsity in the allegations or that the facts have been engineered in a manner to attract the provisions of SC and ST (POA) Act, 1989 is difficult to be ascertained until and unless the same is assessed by the Investigating Agency more so in a case where a superior officer is vested with the powers of investigation.

Having considered the contentions so advanced, I am of the opinion that at this stage it would not be fit and proper to interfere and/or express any opinion regarding the facts of the FIR, the applicability of the sections involved and/or any finding regarding the allegations of political vendetta.

Petitioners would be at liberty to approach this court at the appropriate stage. Petitioners will also the liberty to approach the Investigating Officer who happens to be a superior office to produce any documents or any attending circumstances available with them which would be considered by the Investigating Agency/Officer before filing of the report under Section 173 of the Code of Criminal Procedure.

With the aforesaid observations, the present revisional application being CRR 607 of 2024 is disposed of.

Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]