

01.05.2024

Sl. No.: 23

Court No.30
BM

CRR 1077 of 2022

Birendra Nath Mitra & Ors.

Vs.

The State of West Bengal

For the Petitioners : Mr. Moyukh Mukherjee,
Mr. Abhijit Singh,
Mr. Koustav Lal Mukherjee,
Ms. Aiswarya Bajaj,
Ms. Sarmistha Basak.

For the State : Mr. Anindya Sundar Chatterjee.

1. The present revisional application has been preferred praying for quashing of proceeding being CGR 613/2022 arising out of Rabindra Sarobar Police Station Case No.39 of 2022, presently pending before the learned Chief Judicial Magistrate, Alipore, including order dated 06.03.2022, passed by the learned Chief Judicial Magistrate, at Alipore, in connection with the aforesaid case, alleging commission of offence under Sections 283/188/34 of the Indian Penal Code, added Section 51(b) of Disaster Management Act, 2005.
2. Case diary along with memo of evidence has been placed before the court.
3. **The allegation against the petitioners herein is as follows:-**

“I, S.I. Sanjib Kumar Chakrabarty of Rabindra Sarobar P.S. beg to submit before your good self that on 06.03.22 from 06:30 hrs. to 08:40 hrs. I was performing round duty along with KHG SO1038 Ravi Rana of Rabindra Sarobar P.S. in Rabindra Sarobar P.S. jurisdiction.

During our Round and Checking, we found the above noted people were organizing Mini Marathan on behalf of Cricket Club of Dhakuria with 200 to 250 participant including 40 to 50 female participant on Boraj Road in front of Rabindra Sarobar Stadium Gate No.07 near of Rabindra Nath statue, Kol-29 at about 07:30 hrs. without permission from any competent/proper authority. They started their programme at about 07:50 hrs blocking Roads and footpath.

When the above noted persons were asked regarding to organize and to start Mini Marathan, violating the prohibited promulgated order of the Government of West Bengal, Homes & Hills Department, Nabanna, West Bengal vide order No.715-Home(Cons)/R1M(Cons)-92/2021, dated 17.04.21, Government of West Bengal, Nabanna vide Memo No.647-ISS/2m-22/2020 dated 15.05.2021 they could not be able to render any satisfactory answer. They could not produce any document regarding permission from the competent authority in this regard. They also obstructed the normal flow of traffic as well as obstructed the pedestrians on footpath.

As the above noted persons violated the promulgated orders, they committed cognizable offence u/s 283/188/34 of the IPC and 51(b) of Disaster Management Act.”

4. The learned counsel for the petitioner by way of a supplementary affidavit has filed an order of the Government of West Bengal being No.753/XXII-ISS/2M-22/2020 dated **31.01.2022** wherein certain guidelines/directions to contain the spread of Covid-19 pandemic was issued.
5. **The said order of the Government of West Bengal was in place on 06.03.2022 (date of incident) when the complainant initiated the present proceeding.**
6. **In the written complaint the complainant has stated that they have prima facie violated the order of the Government of West Bengal dated 17.04.2021 and 15.05.2021 without being aware that a further order duly modified taking into consideration the situation at that**

stage had been passed by the government vide order dated 31.01.2022.

7. In the order dated 31.01.2022 social programmes were permitted with 75% capacity.
8. Thus, considering the said facts and material on record, it appears that the offences as alleged in the written complaint are not present even prima facie against the petitioners in the present case.
9. Accordingly, there being no ingredients to constitute the offence alleged, the proceeding in the present case is liable to be quashed in respect of the petitioners herein.
- 10. The revisional application being CRR 1077 of 2022 accordingly disposed of.**
11. The proceeding being CGR 613/2022 arising out of Rabindra Sarabar Police Station Case No.39 of 2022, presently pending before the learned Chief Judicial Magistrate, Alipore, including order dated 06.03.2022, passed by the learned Chief Judicial Magistrate at Alipore, in connection with the aforesaid case, alleging commission of offence under Sections 283/188/34 of the Indian Penal Code, added section 51(b) of Disaster Management Act, 2005, **is hereby quashed in respect of the petitioners.**
12. All applications connected thereto stand disposed of.
13. Interim order, if any, stands vacated.
14. Let a copy of the order be sent to the learned trial court for compliance.

- 15.** Urgent Xerox certified copies of this order, if applied for, shall be supplied to the learned counsel for the parties as expeditiously as possible, in compliance of usual formalities.

(Shampa Dutt (Paul), J.)