

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side**

Present:

The Hon'ble Justice Ajay Kumar Gupta

**C.R.R. 928 of 2017
With
CRAN 2/2017 (Old CRAN 3678/2017)**

**Achintya Kumar Das
Versus
The State of West Bengal**

For the State : Ms. Faria Hossain, Adv.
Ms. Mamata Jana, Adv.

Heard on : 01.03.2024

Judgment on : 04.04.2024

Ajay Kumar Gupta, J:

1. By the present application, the petitioner sought for quashing of the proceeding being G.R. Case No. 8170 of 2014 arising out of Jagacha Police Station Case No. 448 of 2014 dated 23.10.2014

under Sections 342/323/506 of Indian Penal Code and Section 23 of Juvenile Justice Care and Protection Act pending in the Court of the Learned Chief Judicial Magistrate, Howrah.

2. The factual matrix of the instant case is that the petitioner is the father of the adopted male child and one female child. Both were looking after by the petitioner. Suddenly on 23.10.2014, one Chandana Pal and others, the co-villagers of the petitioner lodged a complaint to the effect that the petitioner is the resident of the same locality. His son was committed suicide at his residence few days ago after that the petitioner brought one male child and one female child at his residence. After few days, he started torture physically and mentally upon both the children aged about 12 years and 8 years. On the basis of said written complaint, a Jagacha Police Station Case No. 448 of 2014 dated 23.10.2014 under Sections 342/323/506 of Indian Penal Code and Section 23 of Juvenile Justice Care and Protection Act is registered and started against the petitioner herein though the contention of the petitioner is that he is innocent and no such incident never or ever occurred. The allegations, levelled against the present petitioner, are out and out false and fabricated one. In spite of said facts, a charge sheet has been submitted against the present petitioner under Sections 342/323/506 of Indian Penal Code

and Section 23 of Juvenile Justice Care and Protection Act. Hence, the present application has come up before this Court for disposal.

3. Nobody appears on behalf of the petitioner on several occasions in spite of giving opportunity to him.

SUBMISSION ON BEHALF OF THE STATE:

4. Learned counsels appearing on behalf of the State produced the Case Diary and submitted during investigation, statements under Section 164 of Cr.PC of the victims were recorded. Statements of other witnesses were also recorded under Section 161 of the Cr.PC and finally charge sheet was submitted under Sections 342/323/506 of Indian Penal Code and Section 23 of Juvenile Justice Care and Protection Act when prima facie case established against the petitioner. As such, the case may be dismissed.

DISCUSSIONS, ANALYSIS AND CONCLUSION OF THIS COURT:

5. Having heard the submission of the learned counsels appearing on behalf of the State and on perusal of the application and annexure thereto as well as materials available in the Case Diary, this Court finds victims have not alleged anything against the present petitioner. They have flatly stated before the learned Magistrate while recording their statements under Section 164 of the

Cr.PC that no such incident took place with them and they wanted to return back to the residence of the petitioner, who is father of both the children.

6. It further appears from the record that the Child Welfare Committed has handed over both the female and male child to their father, who is the present petitioner herein after considering the contention of the petitioner as well as children, who were willing to go back to their parent. Now, they are residing with their father, petitioner herein.

7. In view of the above facts and circumstances, this Court does not find any sufficient materials against the present petitioner with regards to the accusations made by the de-facto complainants.

8. In such a situation, the proceeding of G.R. Case No. 8170 of 2014 arising out of Jagacha Police Station Case No. 448 of 2014 dated 23.10.2014 under Sections 342/323/506 of Indian Penal Code and Section 23 of Juvenile Justice Care and Protection Act, if continued, it would be an abuse of process of law and for end of justice, the entire proceeding is required to be quashed.

9. Accordingly, **CRR 928 of 2017** is, thus, allowed without order as to costs. **CRAN 2/2017 (Old CRAN 3678/2017)** is also, thus, disposed of.

10. The proceeding being G.R. Case No. 8170 of 2014 arising out of Jagacha Police Station Case No. 448 of 2014 dated 23.10.2014 under Sections 342/323/506 of Indian Penal Code and Section 23 of Juvenile Justice Care and Protection Act is hereby quashed in connection with the present petitioner.

11. Case Diary, if any, is to be returned to the learned Advocate for the State.

12. Let a copy of this judgment and order be sent to the learned Court below for information.

13. Interim order, if any, stands vacated.

14. Parties shall act on the server copies of this order uploaded on the website of this Court.

15. Urgent photostat certified copy of this judgment, if applied for, is to be given as expeditiously to the parties on compliance of all formalities.

(Ajay Kumar Gupta, J)