

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

PRESENT:

THE HON'BLE JUSTICE AJOY KUMAR MUKHERJEE

**CRR 1503 of 2022
IA No. CRAN 1/ 2022
CRAN 2/2024**

**Goutam Mondal
Vs.
The State of West Bengal & Ors.**

For the petitioner : Ms. Nasreen Islam

For the opposite party no.2 : Mr. Kunal Gangully
Mr. Tirthankar Mukherjee
Ms. Madhurima Sarkar
Ms. Urmi Biswas

Heard On 11.09.2024

Judgment on : 18.09.2024

Ajoy Kumar Mukherjee, J.

1. This application under section 482 of the Code of Criminal Procedure (in short Cr.P.C) has been preferred challenging the order dated 8th September 2021 passed by Judicial Magistrate 3rd court Ranaghat in complaint case no. 54C/2019. By the impugned order learned court below dismissed the said complaint invoking his jurisdiction under section 203 of the Cr.P.C.

2. Petitioner herein contended that in the complaint he has alleged *interalia* that on 5/2/2019 he being SI of police was on duty and on that day he received a call from opposite party no. 2 herein who asked him to meet at his office. When he reached the office of opposite party no. 2 who was then posted as SDPO (sub-divisional police officer), he showed respect towards his superior officer by giving salute but the opposite no.2 without any proper reason stand up from his chair and started to abuse the petitioner with filthy languages in presence of other police personnel and when the complainant protested against such language, the opposite party no.2 attacked him physically and started to beat him mercilessly and for which he sustained bodily injuries including injury in his left eye. After such physical assault the opposite party no.2 allegedly confined him for three hours and thereafter petitioner went to hospital but opposite party no.2 threatened the attending emergency medical officer not to admit the petitioner in hospital and for which concerned doctor did not render proper treatment to the petitioner.

3. It is further alleged that after the said incident the petitioner was suspended from his service and departmental proceeding was initiated against him without following the rules and procedure.

4. The main grievance ventilated in the present Application is that trial court during the pendency of the aforesaid complaint case never summoned the opposite party namely Laltu Halder to appear before the court and only after hearing the complainant and witnesses the trial court passed the order impugned. He further submits that the opposite party no.2 being superior

officer created pressure upon the witnesses, who got frightened to speak the truth about the occurrence before the court.

5. Petitioner further contended that learned court below failed to appreciate that opposite party no.2, who is posted as S.D.P.O., Ranaghat being the superior officer, misused his official position and without any reason had assaulted and humiliated petitioner herein.

6. During the course of argument the petitioner filed one emergency patient ticket issued by EMO Ranaghat SD Hospital in support of his contention that he was assaulted and he sustained injury, though such emergency patient ticket does not disclose as to who is the assailant.

7. Mr. Ganguly learned counsel appearing on behalf of the opposite party submits that on 04.02.2019, the petitioner was entrusted with night patrolling duty and the petitioner along with one SI Rajendra Banerjee intercepted 14 over loaded trucks. SI Banerjee sent all his 6 detained overloaded truck to the MVI Officer after observing legal formalities but the petitioner did not take any action against the other overloaded trucks, but he released remaining trucks taking bribe of Rs. 17,000/-. Learned counsel for the petitioner further submits that on the next day i.e. on 05.02.2019, when the petitioner was engaged in settling with other trucks, he was caught red handed. The sad incident of unethical conduct about taking bribe by the petitioner was reported by the present opposite party No.2 on 05.02.2019 and in order to take revenge, petitioner filed this false case against the opposite party no.2.

8. He further submits that the witnesses of the complaint did not support complainants allegation and as such the court below rightly dismissed the complaints which does not call for interference.

9. I have considered submissions made by both the parties.

10. At the time of inquiry under section 200 of the Code, the complainant himself adduced evidence on oath and he has brought three other witnesses in support of his complaint. It is the specific case of the complainant that the alleged incident occurred in presence of many police personnel. However, during examination of said three witnesses all the three witnesses have stated that they do not know whether petitioner Goutam Mondal initiated any case against SDPO, Ranaghat and witnesses do not know about any incident in respect of which petitioner has initiated the present proceeding. Even the medical officer said that though he stated in the prescription that there is history of assault but he did not mention anything in the prescription as to who assaulted the patient/petitioner.

11. Learned court below while dismissed the complaint made a reasoned finding in support of his dismissal order the relevant portion of said order may be reproduced below.

“Prima facie, accused could not sustain the allegation of assault as alleged in his complaint. He stated that the incident took place in between 12 to 3 p.m. It appears that he consulted doctor at about 5 p.m. He lodged the complaint more or less 23 days after occurrence of incident. He stated that one S.I. Anup Biswas asked him to present before accused but he has not made him as witness. He stated that when he was talking with doctor, accused again called him through two police personnel namely S.I. Rajen Banerjee and Bibhas Sen. Complainant did not make them witnesses as well. On the same day, accused called him at evening and he went there. It is stated by the complainant that accused made a frivolous report against him on the basis of some fabricated complaints but he failed to state anything about contents of those complaints. After 23 days, he preferred this complaint before Learned ACJM, Ranaghat. The reason behind such delay is not sustainable as complainant was well aware on 05.02.2019(the date of alleged incident) that higher authority was not going to help him. He cited two witnesses who failed to state anything about the alleged incident. Though

complainant stated that the incident occurred in presence of public but did not make any one of them as witness. He also failed to state doctor the name of the assailant and the attending EMO had no personal knowledge about the incident."

12. Needles to say that upon perusal of the complaint and upon examination of witnesses, if any under section 200, Cr.P.C, Magistrate has to satisfy himself therefrom that there exists material to proceed against the accused. At this stage the Magistrate is not supposed to act as a post office in taking cognizance of each and every complaint filed before him and issue process as a matter of course. If one reads section 203 with section 204 of the Code, it makes the position clear that section 204 of the code starts with the words "*if in the opinion of the Magistrate taking cognizance of the offence, there is sufficient grounds for proceeding....*" The words "*sufficient grounds for proceeding*" suggests that the allegations made in the complaint, when considered along with the statement of witnesses recorded, would *prima facie* make the accused answerable before the court. Infact one of the objects of examination of the complaint and his witnesses under section 200 is to ascertain whether there is *prima facie* case against accused person or not.

13. I have quoted above that the court below made a clear observation that the alleged eye witnesses did not come and support complainant's case and moreover the witnesses whom he has brought, failed to state anything about the alleged incident, inspite of the fact that the complainant stated that the incident occurred in presence of many police personal.

14. Having considered the aforesaid fact and circumstances of the case and also going through the order impugned, I do not find any illegality or

perversity in the order impugned that calls for interference by this court invoking inherent jurisdiction of this court.

15. CRR 1503 of 2022 stands dismissed.

16. In view of disposal of main Application connected Applications are accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, on priority basis on compliance of all usual formalities.

(AJOY KUMAR MUKHERJEE, J.)