

25.04.2024
Court No.237
Item.04
(Srimanta)

CRR/1370/ 2023
(Assigned)

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973 in connection with Serampore Police Station Case No. 327/2019 dated 01.08.2019 under Sections 419/505(1)(b)/505/120B of the Indian Penal Code.

And

In the matter of: **Samir Sarkar**

...Petitioner.

Mr. Uday Sankar Chattopadhyay,
Mr. Dibakar Sardar,
Ms. Aishwarya Datta

...for the petitioner.

Mr. Debasish Roy,
Mr. Koushik Kundu

...for the State.

Mr. Rajendra Chaturvedi

...for the opposite party no. 2.

1. Leave is granted to correct the cause title and prayer portion of this revisional application.
2. Challenge is the proceeding in connection with Serampore Police Station Case No. 327/2019 dated 01.08.2019 under Sections 419/505(1)(b)/506/120B of the Indian Penal Code corresponding to GR Case No. 1391/2019 pending before the learned Additional Chief Judicial Magistrate, Serampore, Hooghly, in this revisional application wherein prayer for quashing the proceeding sought for.
3. In laconic, one Partha Sarathi Gupta, Secretary of All India Trinamul Congress, Rishra Municipality, Ward No. 1 lodged a

written complaint before the Inspector-in-Charge of Serampore Police Station with an allegation that on 03.07.2019 at about 2/2.30 hours some unknown persons pasted posters on different parts of the area of Rishra in the name of Hon'ble M.P., Shri Kalyan Bandhopadhyay, using abusive language with a view to malign his reputation and dignity. From the CCTV footage one white colour Bolero car with police sticker was found in the area and passengers of the car pasted the said posters with the name of Bharatiya Janata Party on the road side wall and fled.

4. A case was registered as Serampore Police Station Case No. 327/2019 dated 01.08.2019 under Section 419/505(1)(b)/506/120B of the Indian Penal Code. After investigation charge-sheet No. 360 of 2021 under Sections 419/505(1)(b) of the Indian Penal Code was filed against four accused including the petitioner of this case.
5. Mr. Uday Sankar Chattopadhyay, learned Counsel appearing on behalf of the petitioner has submitted that the name of the petitioner does not appear in the FIR. His name only appear in the charge-sheet.
6. Mr. Chattopadhyay has drawn my attention to the evidence collected during investigation particularly the statement recorded under Section 161 of the Code of Criminal Procedure. It is submitted that none of the witnesses disclosed the name of the petitioner and according to QDEB report nothing disclosed against the petitioner.
7. Mr. Rajendra Chaturvedi, learned Counsel appearing on behalf of the opposite party no. 2 also submitted that there is no specific evidence so far collected during investigation against this petitioner. It is submitted by Mr. Chaturvedi that entire

proceedings should not be quashed as other three accused persons are involved in this case.

8. Mr. Kaushik Kundu, learned Counsel appearing on behalf of the State, in his usual fairness, has submitted that no specific evidence has been collected against the petitioner during investigation.

My View :

9. I have gone through the entire Case Diary as well as the documents annexed with supplementary affidavit filed on behalf of the petitioner, during investigation. It is found that 12 (twelve) witnesses were examined and none of the witnesses could identify the petitioner and few of the witnesses have stated that they could have identified if the person is placed before them. Unfortunately, during investigation no effort was taken for holding Test Identification Parade and that is why the petitioner of this case remained unidentified throughout the investigation.
- 10 The alleged posters were also sent to QDEB but no positive result was elicited.
11. It is well-settled that at the time of exercising jurisdiction under Section 482 of the Code of Criminal Procedure High Court will not only look into the written complaint but also the evidence collected during investigation.
12. In the case at hand, I have gone through the entire materials collected during investigation and I find that there is no evidence collected against the petitioner during investigation and FIR also does not disclose anything against the petitioner.
13. In the aforesaid view of the matter, the proceeding in connection with Serampore Police Station Case NO. 327/2019

dated 01.08.2019 corresponding to GR Case No. 1391/2019 stands quashed against this **petitioner only**.

14. Accordingly, CRR/1370/2023 stands allowed.

15. Case Diary be returned.

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

(Bibhas Ranjan De, J.)