

CRR 1430 of 2018

**Nirmal Kumar Saha
Vs.
The State of West Bengal & Ors.**

Mr. Kallol Mondal	
Mr. Anindya Sunder Das	
Mr. Anirban Roy	
Mr. Souvik Das	
Ms. Paramita Mondal	
Ms. Suva Gayen	...for the petitioner
Mr. Debasish Roy, Ld. PP	
Ms. Amita Gaur	...for the State

Ms. Gaur, learned counsel appearing on behalf of State submits that order dated 05.8.2024 has been duly complied. Copy of letter about intimation be kept on record.

This is an application wherein the petitioner has prayed for quashing of the proceeding being GRP G.R. no. 203 of 2016 presently pending before the learned Chief Judicial Magistrate, Howrah.

The petitioner contended that the opposite party no. 3 lodged a written complaint to the Inspector-in-charge, GRPS, Howrah Railway Station inter alia alleging against the accused/petitioner that he had manhandled and assaulted him physically.

Petitioner submits that he is an employee of Postal department working as sorting assistant and peacefully worked at his workplace but suddenly some issues were cropped up between the parties when his said colleague started to bully him pulling caste discrimination. In fact, the petitioner was badly assaulted

physically by complainant/opposite party no. 3, Ranjan Kumar Nayek over the said incident. A counter case over the self-same incident was filed by the petitioner herein and he further submits that over the incident, he first lodged the FIR and thereafter he was medically treated.

It is submitted on behalf of the petitioner that 56 days after the occurrence, the instant FIR was lodged with some false and frivolous allegations. In fact the statements made by the witnesses during investigation are contrary to the statements made by the same witnesses at the time of departmental proceeding. However, after conclusion of the investigation, police has submitted charge-sheet against the petitioner.

Being aggrieved by that order, the petitioner submits that FIR does not disclose any criminal offence at all much less an offence under Section 323/341 of the Indian Penal Code. The learned Magistrate ought to have considered the agony and hardship, the petitioner is going through the present proceeding. In fact, the present proceeding is manifestly attended with mala fide and with ulterior motive for wrecking vengeance on the petitioner and further continuance of the present proceeding will be an abuse of process of the court.

Complainant/Private opposite party is not represented.

Ms. A. Gaur, learned counsel for the State places the case diary and submits that there are sufficient materials in the case diary against the petitioner and this is not a fit case for quashing the proceeding invoking jurisdiction of this court under Section 482 of the Code of Criminal Procedure.

I have considered the submissions made by both the parties. On perusal of the case diary, it appears that the prosecution during investigation has collected injury report and history of assault as recorded by the doctor discloses the name of the assailant/petitioner and it further appears that the victim was treated by doctor on the self-same date i.e. on 28th June, 2016 at 5.30 P.M. Other materials in the case diary including the statement recorded under Section 161 of the Code also prima facie makes out a case against the present petitioner. Moreover, the investigation has already been ended in charge-sheet.

Needless to reiterate that exercise of inherent power to quash the proceeding is called for only in a case where the FIR and materials available in the case diary does not disclose any offence or is frivolous, vexatious or oppressive. Petitioner during argument tried to point out contradictions in the statement of witnesses in the departmental proceeding with that of the statements made during investigation. In my opinion, the High Court has no jurisdiction to appreciate the evidence in the proceeding under Section 482 of the Code because whether there are contradictions and/or inconsistencies in the statement of witnesses, is essentially an issue relating to appreciation of evidence and the same can be gone into by the trial court, when the entire evidence would be adduced by the parties.

Petitioner further alleged that being his colleague, in order to wreck vengeance on petitioner, complainant has lodged the complaint falsely.

In this context, I must say that it is the material collected during investigation and evidence led before the court, which will

decide the fate of the petitioner and at this stage, allegation of wrecking vengeance in lodging complain are of no consequence and cannot by themselves be the basis for quashing the proceeding. There is also no material to show that the complaint is mala fide, frivolous or vexatious and in that event, there would be no justification for interference by the High Court.

In such view of the matter, I find that this is not a fit case for quashing the present proceeding in view of the materials available in the record.

CRR 1430 of 2018 accordingly stands dismissed. However, I find that the present proceeding is pending for a considerable period of time and as such the learned Magistrate is requested to make every endeavour for expeditious disposal of the present case and to conclude the entire proceeding preferably within a period of six months from the date of communication of the order without being influenced by any observations made herein.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)