

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 1219 of 2019

Sumitra Adhikary

Vs

The State of West Bengal & Anr.

For the Petitioner : Ms. Sreeparna Das.

For the State : Ms. Puspita Saha.

For the Opposite Party No. 2 : None.

Hearing concluded on : 15.01.2024

Judgment on : 30.01.2024

Shampa Dutt (Paul), J.:

1. The present revision has been preferred praying for quashing of proceedings arising out of Nakashipara Police Station Case No. 357 of 2015 dated 27.06.2015 under Sections 448/323/506 and 34 of the Indian Penal Code, 1860, pending before the Court of the Learned Additional Chief Judicial Magistrate at Nadia.
2. The petitioner's case is that sometime in the year 2015 the opposite party no. 2 herein filed a petition of complaint before the Court of the Learned Chief Judicial Magistrate at Nadia against two accused persons including the petitioner herein on the allegations as canvassed therein with a prayer under Section 156(3) of the Code of the Criminal Procedure, 1973 for a direction upon the Officer-in-Charge of the Nakashipara Police Station to treat the same as a First Information Report and investigate into the same. The Learned Chief Judicial Magistrate at Nadia acceded to such prayer of the opposite party no.2 herein and consequently the instant case being Nakashipara Police Station Case No. 357 of 2015 dated 27.06.2015 under Sections 448/323/506 and 34 of the Indian Penal Code, 1860 was registered for investigation.
3. The investigating agency submitted the charge sheet being Charge Sheet No. 726 of 2015 dated 20.09.2015 under Sections 448/323/506 of the Indian Penal Code, 1860.

4. The petitioner submits that he was appointed as the headmaster of a government sponsored school named and styled as “Patpukur High School” (hereinafter referred to as the “said school”) with effect from 07.08.2007 vide a memo dated 10.09.2007 issued by the District Inspector of Schools, Nadia.
5. In the year 2012 the said school had received a grant through Sarbasikkha Abhiyan mission for construction of toilets and by way of two cheques bearing Cheque numbers 605710 and 605688 both dated 06.09.2012 to the tune of Rs. 62,000/- and 1,30,000/- respectively. The said cheques were duly deposited in the bank account of the said school and were honored.
6. The construction of the said toilets commenced and was completed by 05.11.2012 under the supervision of the SSA Engineers. The managing committee of the said school approved the entire expenditure of the construction of the toilets vide its resolution in the meeting no.12 (Twelve) dated 18.11.2012.
7. Pursuant to the direction of the S.I. of School, Nakashipara, East Circle, the Utilization Certificate, bearing the joint signature of the petitioner as well as one Hossain Ali Sk., the Secretary of the School Managing Committee was prepared, but due to some negligence on the part of the office clerk, the said certificate could not be submitted before the concerned authority within the prescribed time. The Secretary of the School Managing Committee upon receiving the information of the same

directed the petitioner to submit afresh an office copy of the said certificate to the concerned authority and the same was submitted accordingly in 2014.

8. The utilization Certificate as submitted by him was in respect of expenses incurred for construction of toilets for the general students only, but surprisingly enough the abbreviation "CSWN" was incorporated in a different handwriting without any corresponding signature or initials of the petitioner. The said act on the part of anyone who has some vested interest in the same has been done in order to create an impression that the said certificate was issued with regard to construction of toilets for "CSWN" children, which was never the purpose or to show that the said Certificate was a forged one.
9. The petitioner states that the said school was a Government **recognized** institution till 08.12.2014, but on and from 09.12.2014 the said school became a Government sponsored and vide a resolution dated 09.12.2014 a new Government **sponsored** committee was established with the petitioner as the Headmaster as well as the New Secretary of the said committee which dissolved with effect from 06.04.2015.
10. The petitioner states that a Letter of Suspension dated 14.05.2015 was issued to him by the complainant herein who was the President of the said school.
11. The learned counsel for the state has placed the Case Diary.

12. It appears that Charge Sheet in the present case has been filed for offence punishable under Sections 448/323/506 IPC.

13. Section 448 of I.P.C., lays down:-

“448. Punishment for house-trespass.-Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Ingredients of offence.-The essential ingredients of the offence under sec. 448 are as follows:-

- (1) The complainant was in possession of the property;
- (2) Property consisted of a building, tent or vessel used as a human dwelling or a building used as a place of worship or for custody of property;
- (3) The accused entered into or upon such building, tent or vessel;
- (4) Having entered lawfully into such building, tent or vessel the accused remains there unlawfully;
- (5) His intention was to commit an offence, or intimidate, insult or annoy the person in possession - *Kanwal Sood v Nawal Kishore* AIR 1983 SC 159.”

14. Section 323 of I.P.C., lays down:-

“323. Punishment for voluntarily causing hurt.-Whoever, except in the case provided for by Section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Ingredients of offence.- The essential ingredients of the offence under Section 323 are as follows:-

- (1) Accused voluntarily caused bodily pain, deceased or infirmity to the victim;
- (2) The accused did so with intention of causing hurt or with the knowledge that he would thereby cause hurt to the victim.”

15. Section 506 of I.P.C., lays down:-

“506. Punishment for criminal intimidation.-

Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both,

if threat be to cause death or grievous hurt, etc.-
and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Ingredients of offence.-*The essential ingredients of the offence under sec. 506 are as follows:-*

- (1) The accused threatened someone with injury to his person, reputation or property, or to the person, reputation or property of another in whom the former was interested;*
- (2) The accused did so with intent to cause alarm to the victim of offence;*
- (3) The accused did so to cause the victim to perform any act which he was not legally bound to do.”*

- 16. The complainant** in this case is a peon in Patpukur High School P.S. Nakashipara, District-Nadia. On the date and time of the alleged incident, he was allegedly assaulted by the petitioner and other accused persons and as a result he received injury and was treated at Bethuadahari BPHC.
- 17. Injury report** is at Page 24 of the Case Diary which shows that blunt injury over neck and other body parts was found on examination.
- 18.** From the statements of the petitioner it appears that a letter of suspension dated 14.05.2015 was issued to him by the president of the school.

19. Annexure P3 relied upon by the petitioner shows that one Abdur Rakib Mondal, president of the school has issued the letter of suspension and the complainant, is one Somesh Kanti Chowdhury, who happens to be a peon of the school.
20. Thus the **materials in the case diary which includes the statements of witness and the injury report showing the injuries alleged**, make out a prima facie case against the accused persons including the petitioner in respect of the offences alleged and exercising this Courts inherent power in a case of this nature would be against the interest of justice.
21. **CRR 1219 of 2019 is thus dismissed.**
22. Trial Court to proceed with the trial expeditiously.
23. All connected applications, if any, stand disposed of.
24. Interim order, if any, stands vacated.
25. Copy of this judgment be sent to the learned Trial Court for necessary compliance.
26. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)