

16.04.2024
Court No.34
rpan /23

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

C.R.R. 1608 of 2023

In the matter of : **Sri Rupesh Singh @ Rupesh Kumar
Singh & Others**

- Petitioners.

Mr. Debasis Kar (through V.C.)

Mr. Arka Tilak Bhadra

....for the petitioners.

Mr. Madhu Sudan Sur, Ld. APP,

Mr. Manoranjan Mahata

....for the State.

The revisional application has been preferred challenging the continuance of Baranagar Police Station Case no.189 of 2023 dated 28th March, 2023 under Sections 406/34 of the Indian Penal Code.

The main crux of the contention on behalf of the petitioners was that Baranagar Police Station Case no.189 of 2023 dated 28th March, 2023 is the second FIR as earlier another FIR, being Baranagar Police Station Case no.276 of 2022 dated 14th May, 2022 was registered for investigation and chargesheet submitted under Sections 406/420/509/323/354/34 of the Indian Penal Code.

I have considered the nature of allegations in the first FIR and I am unable to agree that the first FIR and the second FIR are on the basis of self-same set of facts. The factual circumstances are completely different. Having regard to the same, I am of the view that on the issue relating to the second FIR, being Baranagar Police Station Case no.189 of 2023 dated 28th March, 2023, the

petitioner is not entitled to relief. The charges in the case are yet to be considered by the learned magistrate.

Accordingly, I direct that the learned Additional Chief Judicial Magistrate, Barrackpore or any learned trial court in seisin of the matter on an application being preferred under Section 239 of the Code of Criminal Procedure would consider the merits of the case as to whether the trial is required to be proceeded with or the proceedings are to be nipped at the said stage.

Since the accused and the *de facto* / complainant in both the cases, i.e., Baranagar Police Station Case no.189 of 2023 dated 28th March, 2023 and Baranagar Police Station Case no.276 of 2022 dated 14th May, 2022, are more or less same, it would be convenient if both the cases are tried by one and the same court. The schedule will be considered by the concerned jurisdictional court.

With the aforesaid observations, C.R.R. 1608 of 2023 is disposed of.

Case diary be returned to the learned advocate appearing for the State.

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

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

(Tirthankar Ghosh, J.)