

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)
Appellate Side

Present:

Justice Bibhas Ranjan De

C.R.R. 1305 of 2015

Sri Chanchal Mukherjee & Ors.

Vs.

The State of West Bengal & Anr.

For the Petitioners

:Ms. Chandana Ghosh, Adv.
Mr. Debashis Banerjee, Adv.
Mr. Rakesh Jana, Adv.
Ms. Dona Saha, Adv.

For the State

Mr. Rana Mukherjee, Ld. APP,
Mr. Anand Keshari, Adv.

Heard on

:12.09.2023,03.10.2023,
23.11.2023,14.12.2023,
16.01.2024, 07.02.2024,
27.02.2024

Judgment on

: 08th March, 2024

Bibhas Ranjan De, J.

1. This revision application has been preferred for quashment of the proceedings in connection with Kalna PS Case no. 83 of 2014 dated 13.02.2014 under Section 354/504/506/34 of the Indian Penal Code corresponding to G.R. Case No. 190 of 2014.

Brief facts:-

2. Opposite party no. 2 herein was an employee of a company named India Infoline for one and a half years as permanent gold loan staff. On 13.02.2014 the opposite party no. 2 herein, filed a written complaint with the in-charge of Kalna Police Station alleging inter alia that the opposite party no. 2 was subject to indecent proposal by her Branch Manager Pankaj Mitra on the instruction of one Sandip Singha, staff of the Zonal Office and Assistant Territorial Manager, Chanchal Mukherjee. In the complaint, the opposite party no. 2 has alleged that the above named accused have harassed a lot of female employees in the similar manner in the past but as they could not do the same with the opposite party no. 2 herein, they terminated her from job. It was further alleged that the above named accused tried to offer money in

exchange of the withdrawal of the complaint made by the opposite party no. 2. As the opposite party no. 2 did not agree to their proposal the above named accused gave a show cause notice to the opposite party no. 2 to which she did not reply via mail. For that very reason she was terminated the very next day. Thereafter, the accused asked for the keys of the branch office and the vault from the opposite party no. 2 and when she denied to return it the accused threatened her with dire consequences and immediate termination on 12.02.2014.

3. On receipt of the complaint a case was registered as Kalna Police Station case no. 83/14 dated 13.02.2014 under Section 354/504/506/34 of the Indian Penal Code and investigation was concluded only after recording statement of the complainant/opposite party no. 2 and one Ajit Roy under Section 161 of the Code of Criminal Procedure (for short CrPC) and subsequently charge sheet was submitted under Section 354/504/506/34 of the IPC.

4. Ld. Counsel, appearing on behalf of the petitioners has submitted that written complaint did not disclose any offence under Section of 354 of the IPC and other offences under Section 504 and 506 of the IPC are non cognizable for which

FIR cannot be registered without taking permission of the Court.

5. Ld. Counsel for the petitioner has further submitted that the complaint was lodged by the opposite party no. 2 herein for wreaking vengeance after being transferred to other branch office. In support of his contention, he has drawn my attention to the show cause notice annexed with the revision application.
6. Per Contra, Ld. Counsel appearing on behalf of the State has contended that there is sufficient evidence collected for trial of this case as this Court cannot take the documents relied on behalf of the petitioners, into consideration at the threshold of the proceeding.

Analysis:-

7. After receiving the written complaint at Kalna Police Station the case was registered under Section 354/504/506/34 of the IPC obviously, after going through the contents of the written complaint and accordingly formal FIR was prepared at the concerned Police Station.
8. Now, I propose to recapitulate the Provision of Section 354 IPC which runs as follows:-

“354. Assault or criminal force to woman with intent to outrage her modesty.—

Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.”

9. Therefore, assault or criminal force is *sine-qua-non* to constitute an offence under Section 354 of the IPC. On careful scrutiny of the written complaint I do not find either of the two ingredients.

10. Remaining Sections i.e 504 & 506 of the Indian Penal Code are non-cognizable offences which need investigation subject to permission of the Ld. Jurisdictional Magistrate within the meaning of Provision of Section 155 (2) of CrPC Which runs as follows:-

“ (2) No police officer shall investigate a non-cognisable case without the order of a Magistrate having power to try such case or commit the case for trial.”

11. In this case, Provision of Section 354 of IPC was put in the formal FIR by the Recording Officer for the reason best known to him and investigation of the complaint under

Section 504 & 506 was not done in compliance with the Provision of Section 155 (2) of the CrPC.

- 12.** Besides, written complaint *ipso facto* discloses that the opposite party no. 2/ complainant was terminated from the job for not responding to the show cause notice issued to her only a day prior to the filing of the written complaint. Therefore, the possibility of impleading the petitioners in this case with mala fide or malicious motive in order to wreak vengeance with a view to spite them due to private and personal grudge at the behest of the opposite party no. 2 cannot be ruled out.
- 13.** In premises set forth above, I find no other option but to exercise the power conferred under Section 482 of the CrPC to quash the proceeding.
- 14.** Accordingly the proceeding in connection with Kalna PS Case no. 83 of 2014 dated 13.02.2014 under Section 354/504/506/34 of the Indian Penal Code corresponding to G.R. Case No. 190 of 2014 is hereby quashed.
- 15.** As a sequel, CRR No. 1305 of 2015 is hereby allowed.
- 16.** Case diary be returned.
- 17.** Pending applications, if there be, any stands dispose of.

- 18.** All parties to this revisional application shall act on the server copy of this order downloaded from the official website of this Court.
- 19.** Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[BIBHAS RANJAN DE, J.]