

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR No. 1947 of 2023

Priyanka Ghosh & Ors.

Vs

The State of West Bengal & Anr.

For the Petitioners : Mr. Angshuman Chakraborty.

For the State : Mr. Bitasok Banerjee.

Hearing concluded on : 11.09.2024

Judgment on : 24.09.2024

Shampa Dutt (Paul), J.:

1. The present revision has been preferred by the petitioner praying for quashing of the First Information Report giving rise to Bidhannagar (North) Police Station Case No.46/22 dated 19.03.2022 under Sections 341/323/427/506/34 of the Indian Penal Code now pending before the Learned Additional Chief Judicial Magistrate, Bidhannagar, North 24 Parganas (GR 312/2022).
2. The Petitioner no.1's case is that she is an Advocate and is the niece of the opposite party no.2 and that the petitioner no.2 is the brother of the opposite party no.2, and father of the petitioner no. 1.
3. That Bidhannagar (North) Police Station case no. 46/22 dated 19.03.2022 under Sections 341/323/427/506/34 of the Indian Penal Code was started on the basis of a written complaint filed by the opposite party no.2 before the Office in Charge Bidhannagar North Police Station against the petitioners herein wherein it was inter alia alleged as follow :-

“.....That the complainant and his brother, Dibyendu reside in the same house. Due to continuous mental and physical torture on the opposite party no. 2, he has lodged various cases against the petitioners herein including a MP case and NGR case. That Dibyendu Kumar Ghosh has let out the first floor on rent to a Company and several persons everyday use to come and go from such portion of the

premises and that the daughter and son of Dibyendu enters the portion of the complainant and creates nuisance. On 15.03.2022 there was a quarrel when the petitioners herein abused the complainant and tried to assault him, stole the CCTV camera and threatened the complainant.....”

4. It is stated by the petitioner that the aforesaid case was a counterblast to several written complaints made by the petitioner no.1 against the opposite party no.2 before the Bidhannagar Police Station on 07.01.2023, 15.03.2023 and 29.01.2023 annexing the treatment paper which was due to assault on her by the opposite party no.2 herein.
5. On hearing the parties, considering the relationship of the parties and the nature of the dispute between the parties, the parties were directed by this Court to state on affidavit, the number of cases they have filed against each other.
6. Apart from the instant case being Bidhannagar (North) Police Station Case no. 46 dated 19.03.2022 under Section 341/ 323/ 427/ 506/ 34 of the Indian Penal Code arising out of GR no. 312/2022.
7. The following **5 cases** are pending against the petitioner(s) **initiated** by or on behalf of the Goutam Kumar Ghosh, **the Opposite Party No.2 :-**
 - i) NGR Case no. 1228/2021 under Section 107 of the Code of Criminal Procedure.
 - ii) GR No. 116/2019 under Section 447/325/506/34 of the Indian Penal Code, pending before Judicial Magistrate, Bidhannagar.

iii) GR No. 312/2022 under Section 341/323/427/506/34 of the Indian Penal Code pending before Judicial Magistrate, Bidhannagar.

iv) Title Suit No. 392/2022, pending before the Civil Judge (Junior Division) Bidhannagar.

v) Original Suit no. 1/2021 pending before the FTC, court Sealdah for probate.

8. The list of five(5) cases lodged by the petitioners against the opposite party no.2 are as follows:-

Sl.No.	Case No.	Status
a.	Bidhannagar North Police Station Case no. 47 dated 18.02.2015 under Section 341/323/354/506/34 of IPC. (GR No. 152/15)	Not Known.
b.	Bidhannagar North Police Station Case no. 236 of 2015 (GR No. 838/15)	Pending before Learned Judicial Magistrate at Bidhannagar.
c.	Bidhannagar North Police Station Case no. 09 of 2019 under Section 324/325/506/509/34 of IPC. (GR No. 55/19)	Pending before Learned Judicial Magistrate at Bidhannagar.
d.	Bidhannagar North Police Station Case no. 43 of 2022 (GR No. 304/22)	Pending before Learned Judicial Magistrate at Bidhannagar.
e.	Bidhannagar North Police Station Case no. 65 of 2022 (GR No. 456/22)	Pending before Learned Judicial Magistrate at Bidhannagar.

9. It appears from the materials on record that the parties are related to each other and reside in the same premises as co-sharers, residing on a floor each of the joint property.
10. The complainant's specific case against the petitioner's on the date of alleged incident is as follows :-

".....That on 15.03.2022 at about 11.30 A.M., the staffs of the said company kept the motor bike on the water pipe of the water tanker which was brought by me for the water requirement and when I request them to compensate for that they become furious and called my above stated brother and suddenly my said brother Dibyendu Kumar Ghosh and his daughter namely Priyanka Ghosh and his son Dhruba Anindya Ghosh started to abusing me and my family members in most filthy languages, tried to assault me and his son pushed me dangerously, broken down the CCTV of the ground floor premises and stoled it and the local people come, in the place and kept protest, they left the place by threatening me and my family members with dire consequences....."

11. Charge Sheet has been submitted in this case against the petitioners.
12. It appears from the case diary submitted by the State that there are materials therein, prima facie making out a case against the petitioners in respect of the offences alleged.
13. The opposite party/Complainant has relied upon a Judgment of this Court in **Nirmal Pal and Others Vs. State of West Bengal and Anr., 2023 SCC OnLine Cal 449**, where in the Court considering the nature of dispute between the parties had referred the case for

mediation to the concerned District Legal Services Authority to have the matter settled amicably.

14. **It appears from the affidavit filed by the petitioners herein that they have filed five criminal cases against the Opposite Parties/Complainant.**
15. **Whereas the opposite party No.2/ Complainant herein has initiated three Criminal Cases, one Civil (title) Suit and an Original Suit for probate against the petitioners herein.**
16. On investigation in this case, the allegations against the petitioners herein were prima facie established.
17. Most of the offences alleged in the cases against each other are compoundable.
18. The Judgment in ***Nirmal Pal and Others Vs. State of West Bengal and Anr., (Supra)*** relied upon by the opposite party, is not applicable in the present case, considering the facts and circumstances in the present case.
19. Considering that there are several cases filed against each other, **but the parties are at liberty to end their disputes by praying before the appropriate courts to refer their cases for mediation.** And finally it's **the parties themselves who have to end the disputes and choose peace over everything else.**
20. But the present case having prima facie being made out against the petitioners, **CRR 1947 of 2023 stands dismissed.**

- 21.** Trial Court to proceed with the case expeditiously. But if the parties are willing to settle their dispute amicably, the trial court shall refer the case for mediation through the concerned District Services Authority, before proceeding with the trial in the present case.
- 22.** All connected applications, if any, stands disposed of.
- 23.** Interim order, if any, stands vacated.
- 24.** Copy of this judgment be sent to the learned Trial Court for necessary compliance.
- 25.** Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)