

CRR 2366 of 2022

Sumana Banerjee Biswas & Anr.
Vs.
The State of West Bengal & Anr.

Mr. Bidyut Halder	
Mr. Indranil Halder	...for the petitioners
Mr. Madhusudan Sur, APP	
Mr. Dipankar Paramanick	...for the State

This is an application under Section 482 of the Code of Criminal Procedure where the petitioners have prayed for quashing of the impugned proceeding relating to the G.R. case no. 714 of 2020 presently pending before the learned Additional Chief Judicial Magistrate, Barrackpore.

Petitioners contended that the petitioner no. 1 is the wife and petitioner no. 2 is the mother-in-law of Late Ratul Biswas and opposite party no. 2 is the father in law of petitioner no. 1 and the petitioner no. 1 was married to the said deceased, Ratul Biswas on 17.4.2013. It is submitted that their matrimonial life was peaceful.

However with the death of said Ratul Biswas, his father, the opposite party no. 2 made a complaint against the petitioners alleging falsely that said Ratul Biswas committed suicide at the instigation of the petitioner no. 1 and the petitioners are guilty of the offence of abatement of suicide. It is further submitted that

police had already submitted charge-sheet under Section 306/34 of the Indian Penal Code against the petitioners.

Petitioner's specific case is that the said proceeding is wholly bad in law and the investigation was made on the basis of conjecture and surmise. Learned Magistrate illegally relied upon the prosecution case and came to an erroneous finding and the opposite party no. 2 had roped the petitioners on some false and frivolous allegations. Accordingly, petitioners have prayed for quashing the impugned proceeding.

In spite of service, opposite party no. 2 is not represented.

Learned counsel for the State placed the case diary wherefrom it appears that during investigation, police had recorded statement of witnesses who have clearly implicated the petitioners. The first information report also discloses that there are specific allegations against the petitioners.

This is not the stage to evaluate the truthfulness or otherwise of the allegations leveled by opposite party no. 2 against the petitioners nor to determine whether such materials are weighty enough for awarding conviction. It is settled law in view of **State of Haryana Vs. Bhajanlal, 1992 (supp) (1) SC 335**, that only when the petition of complaint does not disclose a prima facie cognizable offence or when the allegations in the petition of complaint or the first information report are inherently improbable or absurd or when the complaint is a mala fide one intended to harass the opponent, or when no evidence of legal character is available or when there is legal bar to the

entertainability of the application, that a criminal proceeding should be quashed.

On the perusal of materials available so far, including complaint, it appears that ingredients of offence have been disclosed and there is nothing to show that the complaint is mala fide or has been lodged for wreaking vengeance on the petitioners in order to spite them due to personal grudge. Since investigation already culminated into a charge-sheet, it is the materials that collected during investigation and evidence led in court, which can only decide the fate of the petitioners.

In such view of the matter, I am constrained to hold that this is not a fit case where by invoking power under Section 482 of the Code, the present proceeding can be quashed.

In such view of the matter, CRR 2366 of 2022 stands dismissed.

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

(Ajoy Kumar Mukherjee, J.)