

September 23, 2024
30 ARDR

CRR 2501 of 2024
CRAN 1 of 2024

Chhabi Dutta & ors.
Vs.
The State of West Bengal & anr.

Adv. Jayanta Narayan Chatterjee,
Adv. Supreme Naskar,
Adv. Jayashree Patra

for the petitioners.

Adv. Swapan Kumar Mallick,
Adv. Sudeshna Das,

...for the O.P.2.

Adv. Zareen Nasuma Khan,
Adv. Kanchan Ray,

...for the State.

Status report submitted by the State is taken on record.

By consent of the parties, the revisional application is taken up
for consideration along with CRAN 1 of 2024.

Heard learned counsels for the parties.

Learned counsel for the petitioners submits that there is not an iota of evidence against the petitioners during the investigation to make out a *prima facie* case under Section 506 of the Indian Penal Code. The entire allegation is pointed towards unknown miscreants and the petitioners have not been named by the defacto complainant either in the FIR or in course of investigation.

Learned counsel for the State submits the status report and refers to the complaint as well as the statement of a witness, namely, Shouvik Ray.

Learned counsel for the private opposite party opposes the prayer and submits that *prima facie* case has been made out against the petitioners.

However, learned counsel has not been able to explain the foundation of his submission.

It appears that the FIR lodged by the private opposite party against the petitioners was registered as FIR no. 632 of 2022 under Sections 498A/307/324/506/34 of the Indian Penal Code. In the present complaint lodged on 19th March, 2023, the private opposite party/defacto complainant has stated that following the earlier FIR lodged by her, a few unknown persons were disturbing her on the road, around her house and criminally intimidating her. She has also referred to a letter of threat received by post from an unknown person on 22nd February, 2023. Charge sheet has been submitted against the petitioners under Sections 195A/506 of the Penal Code. At the time of consideration of charge, the learned trial Court was of the view that there was no material under Section 195A of the Penal Code against the petitioners and charge was framed under Section 506 of the Code.

On a bare perusal of the complaint as well as evidence collected in course of investigation, it appears that the petitioners have not been named by the private opposite party either in the complaint or during investigation. The letter of threat was admittedly issued by an unknown person and not the petitioners.

True, jurisdiction under Section 482 of the Code ought to be exercised with extreme care, caution and circumspection and should not be used to stifle or axe down a legitimate prosecution. The test is whether the uncontroverted allegations *prima facie* establish the case and also whether continuation of such proceeding shall amount to abuse of the process of the Court.

Upon scrutiny of the material available before me, I am inclined to hold that there is no material which *prima facie* makes out an offence under Section 506 against the petitioners. Allowing the case to proceed further shall be an abuse of the process of the Court.

In view of the above, the revisional application being CRR 2501 of 2024 is allowed. CRAN 1 of 2024 is disposed of.

Proceedings being GR case no.1979 of 2023 pending before the learned Judicial Magistrate, 1st Court, Barasat, North 24 Parganas be quashed.

The petitioners be set at liberty at once and discharged from their bail bonds.

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

(Suvra Ghosh, J.)