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CRR 2678 of 2011

In the matter of: Birpal Singh Chauhan.

.... petitioner.

Mr. S. Kar

Mr. Sounrendra Nath Ghosh

.... for the petitioner

Mr. Z.N. Khan

Mr. Asif Dewan

... for the State

Heard the submission of the learned advocates for the petitioner as well as State.

The instant revisional application has been filed for quashing of F.I.R. No. 57 dated 02.05.2011 pending before the West Port Police Station in C.G.R. 1468/2011 under Section 341 and 506 of the Indian Penal Code.

Perused the contentions in the petition as well as the case diary. The de-facto complainant had filed a complaint against the present petitioner and a writ petition being WP 4522 (W) of 2011 before this Hon'ble High Court.

The materials on the case diary reveal of a commotion between the Inspector agency as well as local persons which was instantly resolved. The complaint had been lodged against the petitioner OIC(RED) & Manager.

The charge-sheet was submitted without obtaining permission of this Hon'ble Court as was directed to be filed vide order dated 14.11.2011 in CRR 2678 of 2011 though the

investigation was allowed to continue. However, the concerned I.O. who had submitted charge-sheet in contravention of the order as aforesaid retired from the service on 31.03.2020 as per the report submitted by the Inspector-in-Charge and Officer-in-Charge of West Port Police Station, Calcutta dated 12.10.2023. The charge-sheet revealed an incident have occurred on 21.04.2011 at about 12.45 hours when the complainant was wrongfully restrained by the accused persons along with his companions at B.I.S.N. (Garden Reach Jetty), Bhoot Ghat, Kolkata 43.

The complaint filed by the complainant. The presence of 40 to 50 persons at the jetty, the present petitioner allegedly humiliated the complainant and his advocates and representatives who were present inside the jetty and had restrained the representatives of both the companions. However, he was irresponsible for polluting the air therein. The statement recorded under Section 161 of the Code of Criminal Procedure reflected settlement of the issues between the parties with the intervention of local people. The existence of *prima facie* case to proceed to trial has been obliterated.

Since the complaint as well as the charge-sheet did not reveal commission of cognizable offences and charges under the aforesaid Sections 341 and 506 of the Indian Penal Code cited in the charge-sheet appear to be with herasive intent. Therefore, to allow the instant proceedings before the trial court to continue to the result in process of abuse of law.

In view of the observation of the Hon'ble Supreme Court in **Bhajan Lal vs. State of Punjab & Ors.**¹ wherein the complaint did not reveal any cognizable offence to have been committed by the petitioner, the proceedings before the trial court could not be allowed to continue to the prejudice the petitioner which would ultimately result in the process of abuse of law.

The F.I.R. No. 57 dated 02.05.2011 pending before the West Port Police Station in C.G.R. 1468/2011 under Section 341 and 506 of the Indian Penal Code is quashed.

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

Parties to act on a server copy of this order duly downloaded from the official website of this Court.

(Ananya Bandyopadhyay, J.)

¹ AIR 1993 SC 1348