

CRR 2398 of 2016

**Sri Subhas Chowdhury
Vs.
The State of West Bengal & Anr.**

Mr. Tapas Kr. Ghosh	
Mr. Tanmay Chowdhury	...for the petitioner
Mr. Anand Keshari	
Ms. Rita Dutta	...for the State

Leave is granted to correct the case number of the Goghat Police Station.

The report submitted by the Inspector of Police, Goghat Police Station dated 20th November, 2024 is taken on record.

This is an application wherein the petitioner has sought for quashing of the proceeding being Goghat Police Station case no. 346 of 2015 dated 2nd July, 2015 presently pending before the learned Additional Chief Judicial Magistrate, Arambagh, Hooghly.

The petitioner contended that over the issue of division of shares and demarcation of the ancestral property, a long standing dispute is going on by and between the brother-in-law of the present petitioner and one of his brothers, Biswaranjan Parui. It is further alleged by the petitioner that only to teach a lesson, the defacto-complainant hatched conspiracy and filed the complaint under Section 156(3) of the Code before the learned Judicial Magistrate. However, on the basis of the said complaint, the aforesaid police case started.

He further submits that the allegations leveled in the complaint are false and concocted. Moreover, the present

petitioner is no way connected with the alleged offence and in fact, the dispute among the parties is civil in nature which is basically a family dispute and that too amongst the brothers of the husband of petitioner's sister, to which the present petitioner has no role to play. He further submits that being an employee of a private company, he has been staying at Bengaluru and even on the date of the alleged incident, he was in his office at Bengaluru which will be reflected in the attendance register of the said company.

Petitioner further submits that though the incident allegedly took place on 26th May, 2015 but after a gap of 11 days, the present complaint was made before the learned Magistrate by bringing a cock and bull story against the petitioner to harass and humiliate him. He further submits that during investigation no incriminating materials have been collected against the present petitioner and as such, continuance of the present proceeding against the present petitioner will be an abuse of the process of court.

Learned counsel for the State placed the case diary and submits that during investigation, nothing transpired against the present petition to constitute criminal offence.

I have considered the submissions made by both the parties and on perusal of the complaint, it appears that the name of the present petitioner has not been transpired in the written complaint. Furthermore, during investigation, police has recorded the statement of some of the witnesses and from the said statements and other materials collected during investigation

except the word “all accused person”, nothing specifically alleged by name against the present petitioner.

Having considered the written complain treated as FIR and in the background of family dispute among some of the accused persons and complainant and by taking the allegations made in the written complaint at their face value and as correct in their entirety, I am unable to persuade myself to hold that the contents of the FIR discloses any offence, far from cognizable offence against the petitioner. When the materials in the case diary do not make out any case against the petitioner/accused, it will not be correct to say that the accused must still undergo the agony of criminal trial. This court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta. As no offence against the petitioner is disclosed, he should be saved from frivolous criminal litigation.

In such view of the matter, I find that the continuance of the present proceeding against the present petitioner would be an abuse of process of the court.

In such view of the matter, CRR 2398 of 2016 is allowed. The instant proceeding being Goghat Police Station case no. 346 of 2015 corresponding to G.R. case no. 1394 of 2015 presently pending before the learned Additional Chief Judicial Magistrate, Arambagh, Hooghly is quashed qua the present petitioner, Sri Subhas Chowdhury.

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

(Dr. Ajoy Kumar Mukherjee,J.)