

24-04-2024
Subha
Item no. 13
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
CRR 2813 of 2023

Siraj Mandal
-versus-
State of West Bengal

Mr. Sk. Moinuddin
Mr. Md. Matlabur Rahaman
....for the petitioner.

Mr. Tanmoy Kumar Ghosh
...for the State.

The present revisional application has been preferred for quashing of the proceedings of North Bidhannagar P. S Case No. 175/21 dated 09-08-2021 under Sections 143/188/341/269/270 IPC and Section 51 of the Disaster Management Act, 2005.

The background of the case as narrated in the brief facts of the case is as follows:-

The sub inspector of Police namely Sabiruddin Mufti of Bidhannagar North PS complained against the 52 accused persons who were candidates of SLST to the effect that on 09-08-2021, while he was performing R. T. mobile duly he found that the aforesaid accused persons being the candidates of SLST(State Level Selection Test) assembled near Gate No.5 of Central Park Ground under the jurisdiction of Bidhannagar North PS unlawfully and were heading towards Bikash Bhawan to show their demonstration by raising slogans and halla to fulfil their demands by completely violating the rules of COVID Protocols and other rules and orders. As such, the said 52 candidates were impeded and were asked to disperse from the place as it falls under the zone where restrictions

u/s. 144 CrPC has been imposed. But the 52 accused persons did not pay any heed rather tried to obstruct the way of public navigation and laid themselves on the road as well as on the footpath. They also restrained them from discharging their duties, as such they were arrested after observing all formalities of arrest and the case was registered for investigation.

The chargesheet available in the case diary reflects that the police authorities have examined nine witnesses who are all associated with the police department. No documents have been relied upon by the Investigating Agency in this case as is reflected in the serial no. 11 of the report under Section 173 of the Code of Criminal Procedure.

Mr. Ghosh, learned advocate appearing for the State repeatedly checked the case diary to find out whether there was any notification available in the case diary. However, no notification was available in the case diary which would empower the police authorities to invoke Section 188 of the Indian Penal Code or to that effect Section 51 of the Disaster Management Act, 2005.

Furthermore notifications or any document to substantiate the charges under Sections 269/270 of the Indian Penal Code which relate to “negligent act likely to spread infectious disease dangerous to life” and “malignant act likely to spread infection of disease dangerous to life” were not available in the case diary.

Records reflect that the police authorities exercised their powers to disperse the candidates of SLST and out of the 52

accused persons so cited in the chargesheet, 42 of them surrendered and were released on bail.

Having regard to the materials so available in the case diary and the fact that the investigation has already been concluded, I am of the view that the materials collected are insufficient and falls short of the charges which have been levelled asking accused persons to face the trial in the court of law.

Considering the same particularly with regard to no notice of any public servant having been issued or is available in the case diary both regarding to COVID protocol and also in respect of any order under Section 144 of the Code of Criminal Procedure, I am of the opinion that further continuance of the present proceeding are unwarranted in the background of the present case.

Accordingly, all further proceedings arising out of Bidhannagar North PS Case No. 175/21 dated 09-08-2021 including the chargesheet no.164/21 dated 31-08-2021 filed before the learned A.C.J.M, Bidhannagar, North 24 Parganas is hereby quashed.

As such, the revisional application being CRR 2813 of 2023 is allowed.

Pending any other applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]

