

CRR 2647 of 2019
With
CRAN 1 of 2019 (Old CRAN 4745 of 2019)

Manas Maity & Anr.
Vs.
Rinku Gayen & Anr.

Mr. Apurba Kr. Dutta
Mr. Syed Mosihar Rahman ...for the petitioners

Mr. Debasis Roy, Ld. PP
Ms. Faria Hossain
Ms. Baisali Basu ...for the State

Affidavit of service filed by the petitioners and the status report submitted by the State are taken on record.

Opposite party is not represented.

This is an application wherein the petitioners have prayed for quashing of the present proceeding being Bagnan police station case no. 1 dated 4.1.2019 corresponding to G.R. case no. 28 of 2019 presently pending before the learned Additional Chief Judicial Magistrate, Uluberia.

Petitioners submit that on the date of occurrence, Tapas Maity along with other persons uttered abusive languages to the petitioners and when one staff of petitioner namely Soumen Roy obstructed them from causing damage to the X-ray machine of petitioner, they seriously assaulted Soumen Roy and Tapas Maity furiously bite left side mouth of Soumen Roy, who got serious injury. The petitioners along with injured Soumen Roy immediately went to local primary health center for treatment. Thereafter, the petitioners along with Soumen Roy went to local

police Station to lodge a complaint against the accused persons but they kept them waiting for a long period and thereafter they refused to receive the petition of complaint and after an hour, accused persons came to police station with politicians and the present complaint has been lodged against the petitioners.

After completion of investigation, police has submitted charge-sheet against the petitioners.

The petitioners submit that the complaint lodged against them, are false and opposite party no. 2 in collusion with the political leaders, registered the present case which culminated into a charge-sheet without making proper investigation. Accordingly, petitioners have prayed for quashing of the present proceeding.

Learned counsel for the State raised strong objection contending that sufficient incriminating materials have been collected by the Investigating Officer during investigation and as such, this is not a fit case where the criminal proceeding can be quashed invoking jurisdiction under Section 482 of the Code of Criminal Procedure.

I have gone through the written complaint as well as materials available in the case diary including the injury report, seizure list and the statements of witnesses recorded under Section 164 of the Code as well as the statements recorded under Section 161 of the Code. The Medical officer, in the history of assault has noted the name of the assailants and in the statements and other materials, the name of the petitioners as assailants have been clearly transpired.

It is well-settled that exercise of power under Section 482 of the Code to quash a criminal proceeding is only when the allegations made in the FIR or the materials collected during investigation do not constitute the ingredients of the offence alleged.

In the instant proceeding charge-sheet has been submitted under section 448/324/354/427/506/34 of the Indian Penal Code. From the materials in the case diary including complaint, statements of witnesses, injury report, if considered in the light of the statements made in the FIR, the ingredients of the said offences are disclosed and there is no material to show that the complaint is mala fide, frivolous or vexatious. At this stage, High Court is not required to appreciate the materials collected during investigation to conclude whether said materials are sufficient or not for convicting the accused. Since aforesaid incriminating materials are required to be proved or disproved during trial, no inference can be drawn to conclude that the complaint is unacceptable. As such, this court cannot quash the said criminal proceeding.

In such view of the matter, CRR 2647 of 2019 stands dismissed.

Learned counsel for the petitioners seeks liberty to appear before the court below since the warrant of arrest has already been issued against the present petitioners. Liberty is given to the petitioners to appear before the court below and in the event of such appearance, the court below will dispose of the petitioners' prayer, if any, in accordance with law and will make every endeavour for expeditious disposal of the criminal proceeding

being G.R. case no. 28 of 2019 preferably within a period of six months from the date of communication of the order, since the matter is pending for a long time.

Connected application being CRAN 1 of 2019 (Old CRAN 4745 of 2019) is also disposed of.

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.)