

26.02.2024

Sl.No. 4

Ct. 32

Amalranjan

In The High Court At Calcutta
Criminal Revisional Jurisdiction
Appellate Side

CRR 2844 of 2018

Sri Kanak Kanti Manna and ors.

Vs.

Smt. Aparna Manna and anr.

Mr. Nirmalendu Bera

Mr. Gorachand Samanta.....for the petitioners

Xerox copy of the last order dated 17.1.2024 passed by learned court below filed by the petitioners is taken on record.

It appears that some of the accused persons were represented before the learned court below under section 317 Cr.P.C. The examination of PW 2 in part has already been done and the next date is fixed on 16th March, 2024 for further evidence of PW 2.

The instant application has been filed by 11 accused persons/petitioners herein under section 482 Cr.P.C, 1973 seeking quashing of the impugned proceeding being Complaint Case no. 644 of 2017 under sections 448/323/319/34 of the IPC pending before the learned 2nd Additional Judicial Magistrate, Basirhat, North 24 Parganas.

The brief fact of the instant case is relevant for disposal of this case.

The defacto-complainant/opposite party no. 1 lodged a complaint on 30.10.2017 before the court of Additional Judicial Magistrate, Basirhat, North 24 Parganas alleging that the accused persons being armed with deadly weapons entered into the house of the complainant and mercilessly assaulted her and also taken away some raw coconuts amount to Rs. 2,000/- from the tree.

On the basis of said complaint, the learned Magistrate took cognizance of offences and issued process against all the accused persons, though the claim of the petitioners are that the accusation is totally false and fabricated out of grudge.

Under the above facts and circumstances of the case came before this court for disposal.

Learned advocate for the petitioners submits, the accusation made by the complainant is totally false, fabricated and concocted on the grudge of the instant case and no incident as alleged was ever taken place.

It is further submitted on behalf of the petitioners that there is a civil suit being title suit being no. 92/2011 is pending before the court of learned Civil Judge (Senior Division) at Basirhat, North 24 Parganas (Partition Suit) between the defacto-complainant and the present petitioners.

Due to such pendency of the civil suit, she has lodged complaint against the petitioners is only a counter-blast of the said partition suit. Accordingly, the entire proceeding is

required to be quashed. Otherwise, the petitioners shall suffer injuries and greatly prejudiced.

On the other hand, nobody appears on behalf of the opposite party no. 1 in spite of service and no accommodation sought for.

Having heard the submission of the petitioners and on perusal of the annexures and orders of the learned court below as well as the written complaint made before the learned Magistrate, it appears that the defacto-complainant made accusations against the petitioners that they were assembled with Da, Kurul etc. and further assaulted her. Furthermore, they have also taken away raw coconuts amounting to Rs. 2,000/-.

Considering the case of the complainant, the learned Magistrate took cognizance of offences and issued process and they appeared and obtained bail. One witness has already been examined and evidence of PW 2 is in part.

It further appears from the application that one application filed under section 205 Cr.P.C from the side of the petitioners is pending before the learned Magistrate since long for their examination of personal appearance in day to day proceedings.

Under the above facts and circumstances of the case, I do not find any sufficient reason or grounds to quash the proceeding as the complainant has made allegations and ingredients of sections 448/323/319/34 IPC are disclosed.

Consequently, the instant application being CRR 2844 of 2018 is thus dismissed without any order as to costs.

However, the learned Magistrate is directed to consider and dispose of the application filed by the petitioners under section 205 of the Criminal Procedure Code as expeditiously as possible preferably within 2 months from the date of communication of this order without granting any unnecessary adjournment to the parties, if not disposed of earlier.

Interim order, if any, stands vacated.

Let the order be communicated to the Ld. Court below for information and necessary action.

Liberty is granted to all parties to act in terms of the copy of this order downloaded from the official website of this court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties taking all legal formalities.

(Ajay Kumar Gupta, J.)