

CRR 4214 of 2022

Habibur Rahaman Laskar & Anr.
Vs.
State of West Bengal & Anr.

Mr. Abhimanyu Banerjee
Mr. Anirban Basak ...for the petitioners

Mr. Mr. Imran Ali
Ms. Puspita Saha ...for the State

Perused the report filed by the State. In spite of service of notice, opposite party is not represented.

Being aggrieved and dissatisfied with the impugned criminal proceeding being GR case no. 4865 of 2016 arising out Baruipur Police Station case no. 1439 of 2016 dated 27.6.2016, presently pending before the learned Additional Chief Judicial Magistrate, 1st Court, Baruipur, the present application has been preferred.

The petitioner contended that on the basis of self-same allegation, previously Baruipur Police Station case no. 1462 of 2016 dated 30.6.2016 was initiated. Later, on the basis of same copy of first information report, another proceeding being Baruipur Police Station case no. 1439 of 2016 dated 27.6.2016 has been started, which is also presently pending before the learned Additional Chief Judicial Magistrate, 1st Court, Baruipur.

It is submitted by the petitioner that on the basis of self-same allegation two criminal proceedings cannot run simultaneously. As in the present context, the first information report being Baruipur Police Station case no. 1462 of 2016 was received on 21st June, 2016 is the earliest, there cannot be second FIR on same allegation being Baruipur Police Station case no.

1439 of 2016 dated 27.6.2016 which was received on 22nd June 2016 and for which present proceeding is liable to be quashed.

Learned counsel for the petitioner relied upon a judgment in the case of **T.T. Antony Vs. State of Kerala reported in AIR 2001 SC 2637.**

Learned counsel for the State, on perusal of the documents available in the record submits that the first information report maker actually sent the first information report to two different authorities and it is the mistake on the part of the police that two separate proceedings on the basis of self-same FIR has been initiated. Accordingly, learned counsel for the State also agrees that the second proceeding on the basis of same first information report is liable to be quashed.

Since it is well-settled that there can be no second FIR in respect of same cognizable offence and as a consequence there cannot be fresh investigation on receipt of every subsequent information in respect of same cognizable offence or same occurrence or incident, let the later first information report which gives rise to Baruipur Police Station case no. 1439 of 2016 dated 27.6.2016 initiated under Section 448/326/354/506/34 of the Indian Penal Code being GR case no. 4865 of 2016 presently pending before the learned Additional Chief Judicial Magistrate, 1st Court, Baruipur is hereby quashed.

Accordingly, CRR 4214 of 2022 is disposed of.

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

(Ajoy Kumar Mukherjee, J.)