

13-11-2024
Court No.3
SI No. 32
T.Ojha

**In The High Court At Calcutta
Circuit Bench at Jalpaiguri**

CRR/290/2024

**PRAN KRISHNA ROY @ RAY AND ANR.
VS
UNION OF INDIA AND ORS**

*Mr. Joydeep Kanta Bhowmik, Adv.
Mr. Sayantan Bhowmik, Adv.
Mr. Shubham Kumar, Adv.
Ms. Sayanti Das, Adv.*
...for the Petitioners

*Mr. Sudipto Kumar Mazumder, Adv.
Mr. S. Kar, Adv.*
...for the Union of India

The affidavit of service be kept in record.

The instant application is filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of C.R. Case No. 547 of 2015 arising out of RPF/Post/JPG'S C. No. 1(9) 15, under Section 3(a) of RP(UP) Act dated 12.9.2015.

The contention of Mr. Bhowmik, the Learned Counsel appearing for the petitioners is that the present petitioners are falsely implicated in this case. Although final report/charge-sheet is prepared and filed, the same is not based on any proper materials

available. It is further submitted by Mr. Bhowmik that although the petitioners are slapped with charges under Sections 3(a) and 4 of RP(UP) Act and U/S 409, 467, 468, 471, 411 and 120B of IPC, no available materials are there to support such allegation. No forged document is there in existence which can invite applicability of Section 409, 467 and 471 of the Indian Penal Code. According to Mr. Bhowmik, it is a fit case for quashing the prosecution. Mr. Bhowmik also referred to a reply dated 7.11.2019 by the Public Information Officer, Railway Board wherein it is stated that no RPF is empowered to prosecute criminals under IPC sections.

Per contra, Mr. Mazumder, the Learned Counsel appearing for the Union of India, representing the Railway Authorities, submitted that allegations against the present petitioners are based on available materials. In course of investigation, sufficient incriminating materials were collected which support the allegations and charges under Sections 3(a) and 4 of RP(UP) Act and U/S 409, 467, 468, 471, 411 and 120B of IPC. It

is further submitted by Mr. Mazumder that there is a presumption of guilt under the RP(UP) Act; it is upon the accused persons to rebut. In nutshell, it is submitted that the charges were well-founded against the petitioners.

I have heard rival submissions and perused the C.D.

On perusal of the Charge-sheet and C.D., it appears that, prima facie, incriminating materials are there against the present petitioners. A challan is stated to be forged and manufactured. Whether it is so or not is a question to be decided in trial. Prima facie the available materials do not warrant at this stage quashing of the prosecution, as prayed for.

The petitioners are at liberty to raise these issues at the time of consideration of charge. The Trial Court shall consider charges without being influenced by the observations made above. It is expected that charge shall be considered within 15 days from receiving the copy of this order.

Copy of this Order be forthwith sent to the Trial Court.

The instant application stands dismissed and disposed of.

C.D. be returned.

(SUGATO MAJUMDAR, J.)