

03
16.05.2024
Ct. No.3
sp3

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction
Appellate Side**

CRR No. 292 of 2022

AFTAB AHMED
-VS-
THE STATE OF WEST BENGAL AND ANR

Mr. Anmol Prasad, Adv.
Mr. Sagar Chettri, Adv.
Mr. Dipankar Deb, Adv.
Mr. Sayantan Sarkar

...for the petitioners

Mr. Aditi Shankar Chakraborty, Adv.
Mr. Arjun Chowdhury, Adv.

...for the State

Mr. Anmol Prasad, learned counsel, is appearing for the
petitioner.

Mr. Aditi Shankar Chakraborty, learned counsel, is
appearing for the State.

The petitioner has filed the present application being
CRR/292/2022 under Section 482 of the Code of Criminal
Procedure, 1973 praying for quashing of the FIR registered
against the petitioner dated 24th September, 2022 in
Kalimpong Police Station Case No.259 of 2022 dated 24th
September, 2022 under Section 3(1)(x) of the Schedule Caste
and Schedule Tribe (Prevention of Atrocities) Act, 1989

corresponding to Special GR Case No. 4 of 2022 pending before the Special Court -cum- Additional Sessions Judge Court at Kalimpong. On the basis of the written complaint of one Palden Sherpa dated 24th September, 2022, Kalimpong Police Station Case No. 259 of 2022 was initiated.

After registration of FIR, police has started investigation and on completion of investigation, police had filed charge sheet and now the case is before the Learned Trial Judge and is pending for evidence of the witnesses.

In the charge sheet, the prosecution has cited six witnesses out of which, five witnesses have been examined and next date is fixed on 4th June, 2024 for evidence of the Investigating Officer.

Learned counsel for the petitioner draws the attention of this Court to the evidence of the complainant, who was examined before the Trial Court as PW-3 on 6th May, 2024.

During his cross-examination he has stated that learned advocate of the Hon'ble High Court advised me to file the case against the accused person as the counter blast to the Civil Suit which was filed by the accused Aftab Ahmed. In cross-examination he has further stated that I have no grievance against the accused person.

PW-4, the wife of the defacto complainant (PW-3), in her examination-in-chief stated that while we were coming from home we met with Aftab Ahmed and there was discussion in

between my husband and accused Aftab Ahmed. I have not heard as to what they were discussing with each other. I have nothing more to say about this case.

PW-5 is the niece of the defacto complainant and during her examination-in-chief she has stated that when we were coming towards Damber Chowk at that time the accused Aftab Ahmed crossed us. There was an argument in between Aftab Ahmed and Palden Sherpa. Both of them had altercation as tenant and landlord.

It is also on record that there was a dispute between the defacto complainant and the petitioner and the petitioner has got the decree in his favour and thereafter he had filed the execution case and in the execution case both the parties have compromised the matter and the defacto complainant agreed to purchase the suit property from the decree-holder, the petitioner herein.

Considered the submission made by the counsel for the respective parties.

Perused the materials on record.

As per the complaint, a case under the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act has been initiated against the petitioner and during investigation police found sufficient materials and filed the charge sheet but during Trial neither the defacto complainant nor the witnesses have supported the case of the prosecution. There

is no material on record to prove the case against the petitioner for the alleged offence. Now the case is at the stage of examination of the Investigating Officer. The Investigating Officer cannot improve the case.

This Court finds that no fruitful purpose would be served if this Court will allow to continue with the Trial. This Court finds that this is a fit case where the proceeding is required to be quashed as no ingredients to prove the case for the offence under Section 3(1)(x) of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 is available on record.

Accordingly, the proceeding in connection with FIR No. 259 of 2022 of Kalimpong P.S. dated 24th September 2022 under Section 3(1)(x) of Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act which is now pending before the Special Court -cum- Additional Sessions Judge at Kalimpong being Special GR Case No. 4 of 2022 is set aside and quashed.

The petitioner is discharged from his bail bonds of this case. CRR 292 of 2022 is disposed of.

(KRISHNA RAO, J.)