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24-01-2025
Ct. No.34
b.das

CRR No. 166 of 2024

In the matter of : Pradip Kumar Nath & Ors..... petitioners.

Mr. Biswajit Sau
Mr. Sohhom Sau ...for the petitioners.

Opposite party is not represented.

Heard learned counsel for the petitioners.

The petitioners seek quashing of proceeding being AC 475 of 2022 pending before the learned Judicial Magistrate, 9th Court, Alipore primarily on the ground that a false and frivolous complaint has been lodged against them despite the fact that at the material time the opposite party was restrained from entering into the house in question by a coordinate Bench of this Court.

The opposite party/de facto complainant is the wife of the 2nd petitioner's brother. The 2nd petitioner is the wife of the 1st petitioner and the 3rd petitioner is a whole time domestic help.

A writ petition being WPA 11588 of 2021 was filed by the mother of the 2nd petitioner alleging torture meted out upon her by her son, daughter in law (opposite party herein) and grandson. The Court called for a report from the Inspector in Charge, Behala Police Station and upon

consideration of the said report, the Court, by an order passed on 29th November, 2021 directed the Inspector in Charge, Behala P.S. to escort the daughter in law and grandson out of the house forthwith and immediately.

The opposite party carried the said order in appeal and by an order passed on 8th June, 2022 in MAT 1288 of 2021 an Hon'ble Division Bench of this Court set aside the order passed by the learned Single Judge.

The present complaint refers to the date of occurrence as 30th December, 2021.

The opposite party has alleged that on the said date, when she alongwith her husband and elder son visited her matrimonial house to look after her younger son who resides with his grandmother, the petitioners restrained them from entering thereto, assaulted them and snatched a gold chain from them. The first petitioner also outraged her modesty.

The order passed by the coordinate Bench of this Court was in force on 30th December, 2021 when the incident is alleged to have occurred. Since there was a specific restraint on the opposite party, her husband and elder son from entering into the premises in question which was vacated by the Hon'ble Division Bench on 8th June, 2022, the opposite party could not have entered into the premises for any purpose whatsoever on the said date.

Also, the complaint demonstrates that the opposite party started residing at a separate residence on her own volition. The fact is otherwise. The opposite party was constrained to stay separately from the petitioners and her mother in law in view of the order of this Court. This fact has been suppressed by the opposite party in the complaint.

There being suppression of material facts by the opposite party before the learned Trial Court, this Court is of the view that he has not come before the Court with clean hands and is therefore, not entitled to any relief. It is trite law that a person seeking relief from a Court of law should come with clean hands and place the entire facts relevant to the issue before the Court. It is evident that the opposite party has deliberately violated the said principle of law.

On a bare perusal of the complaint, it appears that a false and frivolous complaint has been lodged by the opposite party against the petitioners. The complaint does not make out a prima facie case against the petitioners.

In view of the above, this Court is inclined to hold that allowing the complaint/proceeding to continue shall amount to abuse of process of the Court.

Accordingly, CRR 166 of 2024 is allowed.

AC 475 of 2022 pending before the learned Judicial Magistrate, 9th Court, Alipore be quashed.

The petitioners be set at liberty at once and be discharged from their bail bonds.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)