

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

CRR 1565 of 2015

Aveek Sarkar & Ors.
Vs.
The State of West Bengal & Anr.

For the Petitioner : Mr. Sandipan Ganguly, Sr. Adv
Ms. Somopriyo Chowdhury
Mr. Soumitra Datta

For the Opposite party No.2 : Mr. Mohammde Amin
Ms. Mahjabeen
Mr. Ghulam Muztaba

Heard on : 21.05.2025

Judgement on : 21.08.2025

Dr.Ajoy Kumar Mukherjee, J.

1. Petitioners herein/accused persons have assailed the impugned criminal proceeding being complaint case no. 34 of 2015 pending before learned Judicial Magistrate, 20th court, Calcutta, under section 500 of the Indian Penal Code (IPC).

2. A petition of complaint was filed by the opposite party herein before the court below alleging that on 13th September, 2014 a news item was

published in the daily Ananda Bazar Patrika in which the members of the Student Islamic Organization were shocked to read representation in which serious allegations were made against the opposite party/organization which is defamatory in nature and the imputations were made by stating that the investigating officer has mentioned that some of these persons have connection with the ex-general secretary of Students Islamic Movement of India one Ahmed Hasan Imran, who is now a member of student Islamic organization and said Imran had mobilized large number of Muslim youth from park circus area with bombs and other weapons and had an active role in sending them to Naliakhali and those Muslims youth committed looting in the area and set many houses on fire.

3. FIR makers contention is that the news item under the heading '*Imran Niye Satraka Koren Rajjer Goendara*' contents untrue statements of information published without any justification as said Ahmed Hasan Imran was never a member of the opposite party namely Student Islamic Organization but due to the publication of the Impugned report the estimation of opposite party/Islamic organization was diminished in public and also in front of persons known to them. Their further contention is that by a letter dated 18th November 2014 sent through advocate, the opposite party demanded an apology and withdrawal of the allegations in the impugned report from the editor, publisher and printer within 15 days of receipt of the said letter, but till date no apology was tendered to them. The petitioner no. 1, 2 and 3 are the editor, reporter and publisher respectively of the said daily newspaper, which had published the said news.

4. Being aggrieved by the impugned proceeding Mr. Ganguly, learned senior counsel appearing for the petitioners submits that on a perusal of the complaint itself it appears that even if the allegations made in the FIR are given face value and taken in their entirety, it only depicts that a report was given by the detectives of Intelligence Branch of the State of West Bengal regarding the activities of Ahmed Hasan Imran. There appears to be no imputation made against the opposite party /Islamic organization in the impugned news report. There is no mention in the report that the organization or its members are engaged in any anti-national or anti-social activities. Even it cannot be presumed from bare reading of the news report that any allegation has been levelled against the opposite party/Islamic organization and as such opposite party herein cannot be said to be an aggrieved person of the alleged offence within the meaning section 199(1) of the Cr.P.C. and except upon a complaint made by a person aggrieved by the offence, no cognizance can be taken by a court in regard to an offence of defamation.

5. He further submits that from a perusal of complaint it also appears that except mentioning the petitioners' designation in the complaint, there is no averment made in the body of the complaint regarding any specific role taken by the petitioners in commissioning of the alleged offence. Furthermore when it is admitted position that the purported publication was made in a news daily owned by a juristic entity under the name and style ABP Pvt. Ltd., without implicating the said owner company, no vicarious liability can be attributed against the petitioners herein for any publication made by the company.

6. Mr. Ganguly further argued that under explanation (4) to section 499 of the IPC, no imputation is sought to harm a person's reputation unless the said reputation directly or indirectly in the estimation of others lowered the moral and intellectual character of that person. Accordingly the very basic requirement of a cause of action for defamation is that a third party must come forward and say that the complainant's moral and intellectual estimation in the eyes of the other third party has been lowered or diminished because of a defamatory imputation. Therefore, for the purpose of requisite cause of action for issuance of process, a mere statement by the complainant that his reputation has been diminished in the eyes of other is not sufficient. In the instant case it appears that except examination of the complainant under section 200 of the Code, no other person has been examined to prove that the reputation of the complainant/Islamic organization has been damaged and or lowered.

7. He further argued that the issuance of the process in the instant case is also bad in law because of the non compliance of the mode of inquiry as provided under section 202 of the Code. It is trite law, when the magistrate finds reasons to conduct an inquiry under section 202 of the Code, it is imperative that apart from examination of the complainant, other witnesses corroborating the statement made by complainant are to be examined even for the purpose of section 202. However, in the instant case the said exercise has not been carried out and for which the inquiry under section 202 has been vitiated and consequently the order issuing process is also bad in law.

8. He further argued that it is not known whether the complainant/Islamic organization is a registered society or any other

association of individuals and in the light of the same the opposite party /Islamic organization does not have any legal capacity to litigate in its own name, neither does it have any capacity to authorize another person on the strength of a letter of authorization to file a complaint. Therefore, the complaint which has been actually filed by Kamruj Jamal depicting himself as the secretary of the opposite party/organization on the strength of a letter of authorization purportedly issued by the president of the opposite party/organization is bad in law and no cognizance could have been taken on the basis of such defective complaint.

9. Mr. Ganguly strenuously argued that the so called report which according to the complainant was defamatory in nature is actually a reproduction of the confidential report submitted by an inspector of police DEB south 24 Parganas to the superintendent of police, District Intelligence Branch South 24 Parganas. Therefore a verbatim extract made from an official document cannot come within the purview of defamation, as the newspaper is not the maker of the same. Publication of a report cannot be said to be a publication of an imputation. In fact the petitioners are absolutely innocent and have been falsely implicated in the instant case with ulterior motive and therefore continuance of instant proceeding any further will be an abuse of process of the court.

10. Mr. Md. Amin learned Counsel appearing on behalf of the opposite party no.2 submits that the report clearly mentioned that said Ahmed Hasan Imran who is involved with various criminal activities and also a member of banned organization, is now a member of the opposite party no.2 which is defamatory. He further submitted that the opposite party no.2 by

the letter dated 18th November, 2014 had demanded an apology and withdrawal of the allegations in the impugned report from the petitioners but the petitioners did not tender any apology nor any rejoinder was published for withdrawal of the impugned report, though it was within the knowledge of the petitioners that the impugned report has caused immense damage to the reputation of the organization and its members.

11. He further argued that the contention of the petitioner that they have merely published a confidential report with no addition or subtraction will not protect them as from the bare perusal of the report it can be found that the alleged report is tampered and intentionally some paper cutting has been added from the middle to malign the reputation of the opposite party no.2/organization. Further the author of the report has not been named and the petitioners can only say who tampered the report by erasing the name of the author. There is also no such department in police by the name of “Inspector of Police, DEB”, South 24 Parganas. He further argued that regulations 79 of chapter IV of the Police Regulations, Calcutta clearly bars unauthorized supply of police records or information to public. Therefore, the petitioners have no authority to publish the so called confidential report from the police diary. Had that been a true confidential report allegedly regarding the activity of Ahmed Hasan Imran, the petitioners might have been booked for sharing the same in the public at large which may have very larger repercussions.

12. He further submits that the contention of the petitioner that they have merely published a report and they are not the maker of the report is not believable. The other limb of argument of the opposite party is that the

report was published in a daily news paper under the name of “Ananda Bazar Patrika” which is a juristic person and without implicating the said company, no vicarious liability can be attracted against the petitioners, is also not tenable as the trial court has ample power under section 311 and 319 of the Code of Criminal Procedure to summon any witness and to proceed against any person appearing to be guilty of offence and the court can exercise such power at any stage. The argument advanced by the learned Counsel for the petitioners that the opposite party no.2 has not named any person in whose estimation the moral and intellectual character of the organization has been lowered, does not find any leg to stand as the imputation caused by the petitioner to the opposite party herein is by and large read admittedly by all the readers of Ananda Bazar Patrika. Explanation IV to section 499 is available only when the imputation is caused by words, gesture, then only the person who claims that his reputation has been maligned has to produce the person under whose estimation his reputation has been maligned but in the case like the present one when a publication has been made, there is no need to bring any third person to prove the publication. Publication itself refers to the act of communicating a defamatory statement to a third party.

13. So far as the argument raised by the petitioners that the process under section 204 of Cr.P.C. was not issued in accordance with law, Mr. Amin argued that in the order dated 23rd March, 2015 the learned Magistrate had examined the complainant under section 200 of Cr.P.C. and directed the complainant to produce all relevant documents and on 23rd April 2015 the court below perused the complaint and the original document

produced by the complainant and on being prima facie satisfied about existence of sufficient grounds for proceeding against the accused persons for commission of an offence under section 500 of IPC, issued process against the accused persons, who are residing within the jurisdiction of the trial court. Therefore the instant proceeding is liable to be dismissed.

Decision

14. A bare perusal of the news paper report, it appears that it is verbatim reproduction of the investigation report submitted by the Inspector of Police, DEB south 24 Parganas, addressed to the Superintendent of Police DIB south 24 Parganas. Therefore, it is undoubtedly a reporting based on official records. In ***Jawaharlal Darda and others Vs. M.G. Kapsikar and another***, reported in **(1998) 4 SCC 112**, the fact of the case was that a news item was published disclosing what happened during the debate which took place in the Assembly. The said proceeding was published in the daily on 04.02.1984, which includes a question regarding misappropriation of government fund and when questioned further about name of the persons involved in misappropriation, the concerned minister named five persons including the complainant. Complainant lodged the complaint alleging the publication of said proceeding involving his name in the newspaper has caused his defamation. The supreme Court held in paragraph 5 as follows:-

5. *It is quite apparent that what the accused had published in its newspaper was an accurate and true report of the proceedings of the Assembly. Involvement of the respondent was disclosed by the preliminary enquiry made by the Government. If the accused bona fide believing the version of the Minister to be true published the report in good faith it cannot be said that they intended to harm the reputation of the complainant. It was a report in respect of public conduct of public servants who were entrusted with public funds intended to be used for public good. Thus the facts and circumstances of the case disclose that the news items were published for public good. All these aspects have been overlooked by the High Court.*

15. In *Sanjay Upadhyay Vs. Anand Dubey* reported in **(2024) 3 SCC 18**, the complaint was founded on an allegation that the appellant who is the registered owner of a daily newspaper allowed a news article to be published in the edition dated 24th February, 2013 bearing a title “*Advocate ne pan masala vyavasayi par karaya jhuta mamla darj*” and the allegation of the complaint was that the said news article was published in the news paper without ascertaining the truth and such publication has brought down the reputation of the complainant in the eyes of the public at large and therefore it constitutes offence under section 500 of the IPC. While dealt with the said issue supreme Court clearly held that the publication in question did not warrant prosecution against the accused for the offence punishable under section 500 of the IPC as it was published in good faith and also on the ground that the publication is protected in exercise of fundamental right of freedom of speech and expression, enshrined under Article 19(1)(a) of the Constitution of India.

16. Coming back to the instant report it appears that the only reference made to the complainant/Islamic organization in the report is to the effect that one Ahmed Hasan Imran who was the erstwhile General Secretary of student Islamic Movement of India is presently the member of the complainant/ Islamic organization. However it is clear from the report that such reference to the complainant/organization is clearly a reproduction of the contents of the investigation report submitted by the Inspector of Police DEB, South 24 Parganas, reproduced on the left hand column of the self same news report.

17. The Eighth exception of section 499 of the IPC reads as follows:-

Eighth Exception.— Accusation preferred in good faith to authorised person.— It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Illustration—If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father—A is within this exception.

18. The aforesaid illustration it clearly reflects that if an accusation is made by a person in good faith against another person, the said accusation cannot amount to defamation. Therefore, the report which merely published official investigation report submitted by a police officer to his superior authority, in discharge of his official duty, it comes within the purview of eighth exception to section 499 of the IPC.

19. In ***Kishore Balkrishna Nand Vs. State of Maharashtra and another***, reported in **(2023) 8 SCC 358**, the complainant lodged a complaint alleging that a shop had been raised by encroaching upon some land. In the complaint the accused/complainant further stated that such shop was creating nuisance as many anti social element and road romeos had started visiting the said shop and were creating all sorts of problem. The contention of the accused was that none of the ingredients under section 499 IPC which is made punishable under section 500 IPC are disclosed and the accused in good faith brought to the notice of the magistrate that the complainant had encroached upon some portion of the land and had put up a shop which was creating nuisance and as such it does not constitute any offence of defamation. The Apex Court held that no case is made out to put

the appellant to trial for the alleged offence as there is no defamation as such. In para 16, the Apex Court held:-

“16. Exception 8 to Section 499 clearly indicates that it is not a defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with regard to the subject-matter of accusation. Even otherwise by perusing the allegations made in the complaint, we are satisfied that no case for defamation has been made out.”

20. Moreover it is settled law that no one can be defamed in his own eyes. In the present case admittedly no witness was examined before issuance of process, in whose eyes the complainant was defamed. It may be that a large number of people is the reader of the said news paper but that does not mean that in the eyes of all those readers, the complainant/organization has been defamed, unless any such reader comes before the court and disclose that in their eyes, the reporting has defamed the complainant/organization.

21. Explanation 4 to section 499 reads as follows:-

“Explanation 4.— No imputation is said to harm a person’s reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations (a) A says— “Z is an honest man; he never stole B’s watch”; intending to cause it to be believed that Z did steal B’s watch. This is defamation, unless it fall within one of the exceptions.

(b) A is asked who stole B’s watch. A points to Z, intending to cause it to be believed that Z stole B’s watch. This is defamation unless it fall within one of the exceptions.

(c) A draws a picture of Z running away with B’s watch, intending it to be believed that Z stole B’s watch. This is defamation, unless it fall within one of the exceptions.”

22. Therefore unless the complainant shows by examination of witnesses, before issuance of process that in the estimation of such witness, the moral or intellectual character of the complainant has been lowered, no process/ summons can be issued under section 500 of the IPC. In the instant case

the statement of said Kamruj Jamal who is the secretary of the complainant/ organization has only recorded his statement on solemn affirmation on behalf of the complainant. In absence of any other witness to corroborate the allegations of the complainant that it was defamatory in their eyes, no process ought to have been issued by the magistrate, as no prima facie case under section 500 IPC is made out.

23. This High Court in ***Dipankar Bagchi Vs. State of West Bengal & Anr.*** reported in **2009 SCC OnLine Cal 1877** held that if the allegation made in the complaint is that due to the imputation made by the accused, his reputation has been harmed and lowered down in the estimation of the others, and if it does not receive support from the evidence of other witness(es), no case for commission of an offence of defamation has been made out against the accused. The same view has been reiterated by this High Court in ***Smt. Kalpana Majumder Vs. State of West Bengal & Anr.*** reported in , **2017 SSC Online Cal 103** and ***M/S Nishka Properties Pvt. Ltd. Vs. State of West Bengal***, reported in **2013 SCC Online Cal 14482**.

24. In ***Nishka properties Pvt Ltd. and another*** (supra) it has been specifically held by this High court

“In order to justify a charge under Section 500 IPC it is required that the allegations satisfy requirement of Section 499 IPC as also the explanations appended thereto. It is thus required to be shown by an aggrieved person that the imputation which has harmed his reputation, directly or indirectly lowered his moral and intellectual character in the estimation of others. In the event, the moral or intellectual character of the aggrieved person is not lowered in the estimation of other persons, making of the imputation cannot per se lead to commission of offence of defamation. In the instant case, neither the petition nor the statement of the Opposite Party No. 2, recorded on solemn affirmation before the learned Magistrate, allege that the reputation and/or moral or intellectual character of the Opposite Party No. 2 was lowered in the estimation of any other person and the Opposite Party No. 2 had also failed to adduce any person, as witness on his behalf, in support of the fact that his moral or intellectual character has been lowered in the eyes of the said person subsequent to publication of the alleged defamatory letters. It is thus apparent that the Opposite Party No. 2 has failed to make out a case within the

parameters as provided under Section 499 IPC and as such the charge of defamation as alleged against the petitioner is without any merit.”

25. In M/S. Pataka Industries Pvt Vs. State of West Bengal, reported in **2013 SCC Online Cal 19696** this High Court held as follows:-

Defamation is a species of which mens rea is the genesis. The complaint of all cases cannot be equated with defamation. The complaint may not have any mens rea but defamation must have it. Any sort of allegation with a touch of imputation against any person per se cannot be categorised as “defamation”. Had it not been so, there cannot be any birth of complaint against anybody. Every complaint is more or less having a touch of imputation. There is a marked difference between ‘defamation per se’ and ‘implied defamation’, which is prima facie not actionable. The former manifests only defamation while the latter is an allegation mixed with imputation. The allegation necessarily includes imputation to some extent while the vice versa is not correct.

Every citizen has a right to freedom of speech subject to restriction as covered under Section 19(1)(a) of the Constitution of India. Ventilation of grievances to superior controlling authority against any Officer in respect of an interest inversely suffered by a person does not fall within the ambit of Section 499 IPC to warrant punishment under Section 500 IPC.

26. Furthermore it is no longer res integra that press has the freedom to report news worth materials of public significance. In Arnab Ranjan Goswami Vs. Union of India & Others reported in **(2020) 14 SCC 12** it was held in para 38 as follows:-

38. *Article 32 of the Constitution constitutes a recognition of the constitutional duty entrusted to this Court to protect the fundamental rights of citizens. The exercise of journalistic freedom lies at the core of speech and expression protected by Article 19(1)(a). The petitioner is a media journalist. The airing of views on television shows which he hosts is in the exercise of his fundamental right to speech and expression under Article 19(1)(a). India's freedoms will rest safe as long as journalists can speak truth to power without being chilled by a threat of reprisal. The exercise of that fundamental right is not absolute and is answerable to the legal regime enacted with reference to the provisions of Article 19(2). But to allow a journalist to be subjected to multiple complaints and to the pursuit of remedies traversing multiple States and jurisdictions when faced with successive FIRs and complaints bearing the same foundation has a stifling effect on the exercise of that freedom. This will effectively destroy the freedom of the citizen to know of the affairs of governance in the nation and the right of the journalist to ensure an informed society. Our decisions hold that the right of a journalist under Article 19(1)(a) is no higher than the right of the citizen to speak and express. But we must as a society never forget that one cannot exist without the other. Free citizens cannot exist when the news media is chained to adhere to one position. Yuval Noah Harari has put it succinctly in his recent book titled “21 Lessons for the 21st*

Century”: “Questions you cannot answer are usually far better for you than answers you cannot question”.

27. In **LIC Vs. Manu Bhai D Shah** reported in **(1992) 3 SCC 637** it was held by Apex Court that subject to reasonable restriction stated in Article 19(2), any attempt to deny the citizens right to publish and circulate his views violates Article 19(1)(a) of the constitution of India. Para 8 of the Judgement runs as follow:-

8. The words “freedom of speech and expression” must, therefore, be broadly construed to include the freedom to circulate one's views by words of mouth or in writing or through audio-visual instrumentalities. It, therefore, includes the right to propagate one's views through the print media or through any other communication channel e.g. the radio and the television. Every citizen of this free country, therefore, has the right to air his or her views through the printing and/or the electronic media subject of course to permissible restrictions imposed under Article 19(2) of the Constitution. The print media, the radio and the tiny screen play the role of public educators, so vital to the growth of a healthy democracy. Freedom to air one's views is the lifeline of any democratic institution and any attempt to stifle, suffocate or gag this right would sound a death-knell to democracy and would help usher in autocracy or dictatorship. It cannot be gainsaid that modern communication mediums advance public interest by informing the public of the events and developments that have taken place and thereby educating the voters, a role considered significant for the vibrant functioning of a democracy. Therefore, in any set-up, more so in a democratic set-up like ours, dissemination of news and views for popular consumption is a must and any attempt to deny the same must be frowned upon unless it falls within the mischief of Article 19(2) of the Constitution. It follows that a citizen for propagation of his or her ideas has a right to publish for circulation his views in periodicals, magazines and journals or through the electronic media since it is well known that these communication channels are great purveyors of news and views and make considerable impact on the minds of the readers and viewers and are known to mould public opinion on vital issues of national importance. Once it is conceded, and it cannot indeed be disputed, that freedom of speech and expression includes freedom of circulation and propagation of ideas, there can be no doubt that the right extends to the citizen being permitted to use the media to answer the criticism levelled against the view propagated by him. Every free citizen has an undoubted right to lay what sentiments he pleases before the public; to forbid this, except to the extent permitted by Article 19(2), would be an inroad on his freedom. This freedom must, however, be exercised with circumspection and care must be taken not to trench on the rights of other citizens or to jeopardise public interest. It is manifest from Article 19(2) that the right conferred by Article 19(1)(a) is subject to imposition of reasonable restrictions in the interest of, amongst others, public order, decency or morality or in relation to defamation or incitement to an offence. It is, therefore, obvious that subject to reasonable restrictions placed under Article 19(2) a citizen has a right to publish, circulate and disseminate his views and any attempt to thwart or deny the same would offend Article 19(1)(a).”

28. Moreover I am agreeable with the submissions made by Senior Counsel Mr. Ganguly that there is nothing to show that the complainant/

organization is a body or association that a secretary can be permitted to claim defamation of all its member by mere reference to one of its so called member by referring a publication alleging that the publication amounts to defamation of all its members.

29. In ***Kalyan Banerjee Vs. Mridul Das*** reported in **2015 SCC Online Cal 10603**, ratio in this context has been laid down by this Court as follow:-

12. In the present case the allegation is that the petitioner by his derogatory statements caused defamation of the Communist Party of India (Marxist). The only identifiable member of that particular political party in the entire complaint happens to be Mr. Buddhadev Bhattacharya, the Chief Minister of West Bengal at the relevant time. Undoubtedly the highlighted statements of the petitioner are indecent, vulgar and derogatory. However there is a Statutory bar under section 199(2) & (4) of the Cr.P.C. for prosecution for the offence of defamation against the Chief Minister of the State at the instance of a private complainant. Under these provisions taking of cognizance in relation to the offence of defamation against certain specified Office holders and Public Servants including a Minister of the Union or of a State (which naturally includes a Chief Minister as well) without the previous sanction of the State Government is not permissible. The only exception in this regard is taking of cognizance of such offence by a Court of Session, and that too only upon a complaint made in writing by the Public Prosecutor. But in this case neither the complaint was filed after obtaining sanction from the State Government, nor was the cognizance taken by any Session Court. Consequently the proceedings so far as they relate to the alleged defamation of the Chief Minister of West Bengal at the relevant time are clearly unsustainable on account of the Statutory bar under section 199(2) & (4) of the Cr.P.C.

13. Regarding the alleged defamation of the political party, this Court, in relying on the citations referred above, is in respectful agreement with the decision of the Kerala High Court that the Communist Party of India (Marxist) is not a determinable, definite or identifiable body or association of such nature that each and every member of the same stands to get individually defamed when an insinuation is made against the party as a whole. The Complainant therefore cannot be held to be defamed individually, and consequently is not an "aggrieved person" in the given case. On this count also therefore the complaint filed in the court of the Ld. Chief Metropolitan Magistrate would be untenable.

30. In ***S. Khsuboo Vs. Kanniammal and another*** reported in **(2010) 5 SCC 600**, Supreme Court while dealt with the issue of cause of action for defamation case held as follows:-

42. While deciding the case, this Court in G. Narasimhan [(1972) 2 SCC 680 : 1972 SCC (Cri) 777 : AIR 1972 SC 2609] placed reliance on the judgment of the House of Lords in Knupffer v. London Express Newspaper Ltd. [1944 AC

116 : (1944) 1 All ER 495 (HL)] , wherein it had been held that it is an essential element of the cause of action for defamation that the words complained of should be published “of the complainant/plaintiff”. Where he is not named, the test would be whether the words would reasonably lead people acquainted with him to the conclusion that he was the person referred to. In fact, it is the reputation of an individual person which must be in question and only such a person can claim to have “a legal peg for a justifiable claim to hang on”.

31. In the overall consideration of the matter, I find that this is a fit case for quashing the order of issuance of process and the proceeding itself, as from the complaint, as well as from the initial deposition of complainant, no case for commission of an offence of defamation has been made as against the present petitioners. In above mentioned facts and circumstances of the case since the chance of conviction of the petitioners is bleak, I find that further continuance of the present proceeding will be a mere abuse of process of Court.

32. In such view of the matter **CRR 1565 of 2015** is allowed.

33. The impugned proceeding being complaint case no. 34 of 2015 pending before learned Judicial Magistrate, Calcutta is hereby quashed.

34. Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(DR. AJOY KUMAR MUKHERJEE, J.)