

Sl. 197
28.2.2025
Court No.34
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**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

CRR 2493 OF 2024

In The Matter Of: **Satya Surya Ghosal & Ors.**

... Petitioners

Ms. Priya Ghosal

.... Petitioner no.3 in person
and for other Petitioners

Ms. Anasuya Sinha
Mr. Arani Bhattacharya.

....For the State

Supplementary affidavit, filed by the petitioners, is taken on record.

Heard learned counsels for the petitioners and the State and perused the Case Diary.

The petitioners seek quashing of proceeding in connection with South Port Police Station Case No.51 of 2024 dated 5th May, 2024 primarily on the ground that no offence, as alleged, has been made out against them.

It appears from the material on record that charge sheet has been submitted against the petitioners under Sections 341/323/114 of the Indian Penal Code. Out of six witnesses cited in the charge sheet, statement under Section 161 of the Code of Criminal Procedure of only two witnesses has been recorded during investigation. The said witnesses are the mothers of the allegedly assaulted children and are interested witnesses. No other witness has been examined by the investigating officer. Though the complaint states that two children sustained injury, only one

medical injury report of Alok Roy is found on record. The injury report reveals that no injury was found on the person of the child.

The report reveals that the first petitioner filed a writ petition earlier alleging unauthorized construction on Bhukailash Debuttar Estate of which he is a Sebait. By an order passed on 10th January, 2024 in the said writ petition being WPA 26754 of 2023, a coordinate Bench of this Court directed the Officer-in-Charge, South Port Police Station to keep strict vigil over the properties involved therein to ensure that no unauthorized construction was raised in the said premises. According to the petitioners, the private opposite parties have been residing in the said property after the order in the writ petition was passed. The present complaint, according to the petitioners, is a retaliation to the writ petition filed by the first petitioner.

The private opposite parties have not been represented despite service of notice.

True, jurisdiction under Section 482 of the Code of Criminal Procedure ought to be exercised with extreme care, caution and circumspection and should not be used to stifle or axe down a legitimate prosecution. The Hon'ble Supreme Court, in the authority in **State of Haryana and Ors. vs. CH. Bhajan Lal and Ors.**, reported in **1992 SCC (Cri) 426**, has observed that where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused, inherent power under Section 482 of the Code should be

exercised to prevent abuse of the process of the Court or otherwise to secure the ends of justice.

Upon consideration of the material available on record including the FIR and the evidence collected in course of investigation, this Court is of the view that no *prima facie* case under Sections 341/323/114 of the Indian Penal Code has been made out against the petitioners and allowing proceeding to continue shall be an abuse of the process of the Court.

In view of the above, the revisional application is allowed.

The proceeding in connection with South Port Police Station Case No.51 of 2024 dated 5th May, 2024 be quashed.

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

Case Diary be returned.

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

(Suvra Ghosh, J.)