

12.09.2025
13
sdas

CRR 3281 of 2025

In Re : An application under Section 482 of the Code of Criminal Procedure, 1973 (corresponding to Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023).

In Re : Indrani Ghatakpetitioner

Mr. Subir Banerjee
Mr. Anupam Ghosh
..... for the petitioner

The instant revisional application has been preferred seeking quashing of Kotwali Police Station Case No. 1052 of 2021 dated 26.10.2021, corresponding to G.R. No. 262 of 2022, under Sections 325/506/34 of the Indian Penal Code.

Mr. Banerjee, learned Advocate appearing for the petitioner, submits that the present case has been instituted by the de facto complainant only with the intent to shield his own son. Drawing attention to the FIR, he submits that it was alleged therein that, on 23rd October, 2021 at about 11:00 P.M., the son of the de facto complainant had brought an unknown lady to his residence and upon inquiry, disclosed her name as Indrani Ghotok. Thereafter, on 25th October, 2021 at about 10:30 P.M., the de facto complainant and his wife tried to persuade their son to send back Ms. Ghotok to the place from where she had been brought. At this, the son along with Ms. Ghotok allegedly became enraged and assaulted the de facto complainant and his wife. Again, on 26th October, 2021 at about 7:00 P.M., both the accused and Ms. Ghotok are said to

have assaulted the de facto complainant and his wife, who were subsequently treated at Saktinagar Hospital.

Referring to the injury report, Mr. Banerjee submits that the date, time, and place of the injury were specifically recorded as 26th October, 2021, 10- 11 A.M. and Home, and upon medical examination, external abrasions and bruises were noted. The attending doctor opined that the injuries were simple in nature. He further draws attention to an order dated 10th November, 2021, passed by the learned Chief Judicial Magistrate, Nadia, wherein it was observed that the injuries were simple in nature, resulting in dilution of the charge under Section 308 of the Indian Penal Code. It is further submitted that in the FIR, the woman was merely referred to as “that lady” without disclosure of any identity, and neither the FIR nor the charge sheet contains any incriminating material against the present petitioner. Accordingly, he contends that continuation of the criminal proceedings against the petitioner would amount to an abuse of the process of law and, therefore, prays for quashing of the case insofar as it concerns the petitioner.

Having heard the learned Advocate appearing for the petitioner and upon perusal of the materials on record, I am of the view that there is no reason to keep the present revisional application pending.

The power to quash a criminal proceeding is to be exercised sparingly and with caution, and only when such exercise is justified by the tests specifically laid down under the provisions of Section 482 of the Code of Criminal Procedure, 1973 (in short, “the Code”), corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short, “BNS”). When an application is made for quashing, an onerous and more diligent duty is cast upon the Court to determine whether the continuation of the criminal proceeding would amount to an abuse of the

process of law. Ordinarily, criminal proceedings should not be encouraged when found to be mala fide or otherwise an abuse of the due process of law, and where quashing the criminal case would clearly serve the ends of justice.

There may be cases where the allegations made in the FIR or complaint, even if taken at face value and accepted in their entirety, do not constitute an offence, then it would be proper to quash the criminal proceeding.

In the present case, Mr. Banerjee has attempted to highlight certain irregularities and/or contradictions in the prosecution case. He contends that there is no specific allegation against the present accused person and has also taken a plea of alibi. He further submits that the injury allegedly suffered by the victim was simple in nature. He argues that these contradictions have created a serious dent in the prosecution case and, therefore, the case should be quashed.

However, the plea of alibi is a question of fact. While the case was initially started under Sections 325/308/506/34 of the Indian Penal Code, the charge-sheet has ultimately been submitted under Sections 325/506/34 of the Indian Penal Code. Once Section 34 IPC is invoked, it does not require that each accused must have committed overt acts; it is sufficient if they acted in furtherance of a common intention. There is a distinction between “there is no legal evidence” and “there is evidence that is inconsistent with the involvement of the accused person.” In the present case, it cannot be said that there is no legal evidence at all.

Therefore, upon careful scrutiny of the materials placed before this Court, it cannot be said that there is no legal evidence to justify the continuation of the proceedings against the present accused. The factual disputes raised by the petitioner, in support of his contention that the

case ought not to proceed against him, can only be adjudicated upon proper evaluation of the evidence during trial. At this stage, it would not be proper to arrive at a premature conclusion that, as urged by Mr. Banerjee, the prosecution case is devoid of medical support or suffers from serious lacunae. It is equally inappropriate, at this stage, to enter into an enquiry as to the reliability or genuineness of the allegations made in the FIR/complaint or of the evidence collected by the investigating agency.

Therefore, for the reasons and discussions set forth hereinabove, I am of the considered view that it cannot be held that continuation of the present proceeding against the petitioner amounts to an abuse of the process of law warranting quashing of the case.

This revisional application is, thus, dismissed.

(Partha Sarathi Chatterjee, J.)