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CRR 3526 of 2025

In Re : An application under Section 442 read with Section 528 of the BNSS, 2023 and Section 401 read with Section 482 of the Code of Criminal Procedure.

In Re : Surajit Chakraborty & Ors.petitioners

Mr. Dipanjan Chatterjee
Mr. Kalyan Kumar Bhattacharjee
Ms. Rimpa Adhikari
Ms. Kakan Das
..... for the petitioners

The present revisional application has been filed seeking quashing of Sessions Case no. 163 of 2021 corresponding to S.T. no. 08 (02) of 2025 arose out of Usthi Police Station Case No. 251 of 2020 dated 7th August 2020, registered under Sections 341/328/ 307/ 34 of the Indian Penal Code, with added Section 302 of the Indian Penal Code, pending before the learned Additional District and Sessions Judge, Fast Track 1st Court at Diamond Harbour, District South 24-Parganas.

Mr. Chatterjee, learned Advocate representing the petitioners, submits that petitioners No. 1 and 2 do not wish to press this revisional application. Therefore, the revisional application insofar as it relates to petitioners No. 1 and 2 is dismissed as not pressed.

Mr. Chatterjee, drawing my attention to the statement of the victim recorded prior to his demise, submits that the said statement constitutes a dying declaration in which the victim made specific allegations against the accused persons, namely petitioners No. 1 and 2.

Subsequently, those two accused persons were arrested, and the names of petitioners No. 3 and 4 emerged from the statements of the co-accused recorded during their custody.

Relying on the decision reported in 1993 SCC OnLine Mad 604 (P. Pragasam v. State represented by Inspector of Police, Karaikal Town Police, Pondicherry), he contends that the confession of a co-accused has no evidentiary value in view of Sections 25 and 26 of the Indian Evidence Act. He further submits that a conviction based solely on the confession of a co-accused is impermissible in law. Accordingly, he prays that, in light of the principles laid down in P. Pragasam (supra) and having regard to the facts and circumstances of the present case, the proceedings against petitioners No. 3 and 4 be quashed.

Having heard the learned Advocate appearing for the petitioner and upon perusal of the materials on record placed before me, I am of the view that there is no purpose of keeping this revisional application pending.

It is a well-settled principle that the power to quash criminal proceedings must be exercised sparingly and with utmost caution, and only in circumstances justified by the tests specifically laid down in the provision itself. Such power may be invoked where the initiation or continuation of proceedings amounts to an abuse of the process of law; where there exists a legal bar to the institution or continuation of proceedings, such as the absence of requisite sanction; where the allegations in the FIR or complaint, even if taken at their face value, do not disclose the commission of any offence; or where the allegations, though constituting an offence, are unsupported by any legal evidence.

However, there is a distinction between the absence of legal evidence and the existence of evidence inconsistent with the accused's

guilt. At this stage, the Court will not assess the reliability of such evidence.

In the present case, undoubtedly, before his demise, the victim named petitioners No. 1 and 2. The records contain sufficient material indicating the presence of other two persons at the place of occurrence at the relevant time. The statement of the de facto complainant, recorded under Section 164 of the Code of Criminal Procedure, suggests that four persons were involved in the alleged offence. The record also shows that the names of petitioners No. 3 and 4 surfaced from the statements of the co-accused.

Whether such statements of the co-accused persons are acceptable or can form a basis for any decision is a matter to be decided by the trial court after evaluation of the evidence. It is not appropriate to deliberate on this issue at this stage.

Therefore, after thoughtful and anxious consideration of the submissions made on behalf of petitioners No. 3 and 4, and upon close scrutiny of the materials on record, I do not find any force in the submission that continuation of the case against the petitioner nos. 3 and 4 would amount to an abuse of due process of law

I have carefully gone through the decision referred to by the petitioners. However, the same is distinguishable on facts.

Therefore, for the reasons and discussions set out above, I am of the view that the contention advanced on behalf of the petitioner nos. 3 and 4 lacks merit, and accordingly, the revisional application is dismissed.

(Partha Sarathi Chatterjee, J.)