

CRR No. 3790 of 2024

In the matter of : Mainak Agarwala & Ors..... petitioners.

Mr. Moyukh Mukerjee
Mr. Koustav Lal Mukherjee
Mr. Sarthak Mondal
Ms. Sarmistha Basak ...for the petitioners.

Ms. Baisali Basu
Mr. Tirupati Mukherjee ..for the State.

Heard learned counsels for the parties.

Perused the Case Diary.

A *suo motu* complaint was lodged against several persons who were allegedly holding a party and were playing loud music in the wee hours of the night. When the police personnel reached the spot and requested them to refrain from playing the loud music, they abused and assaulted the police resisting them from performing their official duties.

On the basis of such complaint, GR Case No.1250 (A) of 2023 was registered and is pending before the learned Additional Chief Judicial Magistrate, Bidhannagar. Charge sheet has been submitted.

Learned counsel for the petitioners, seeking quashing of the proceedings, submits that there were several persons who were involved in the alleged incident

and it is not clear as to how the petitioners were identified by the police amongst them. The complaint or the charge sheet does not disclose any cognizable offence against the petitioners.

Per contra, learned counsel for the State refers to medical reports of police personnel which demonstrate that they were assaulted by some persons when they were on duty. No external injury was found in their person. The alleged miscreants have not been named in the medical report.

I have considered the rival contentions of the parties and perused the material on record.

The complaint demonstrates that several persons were involved in the alleged incident and they attacked and assaulted the police personnel and used unparliamentary language towards them. The case diary is silent as to how the four petitioners were identified in the melee since admittedly there were 15-20 persons who were present at the relevant time. There is not a scrap of paper in the case diary to indicate prima facie involvement of the petitioners in the alleged offence. Moreover, though charge sheet has been submitted against the petitioners and others, the same is silent as to the specific overt act attributed to each of them and the extent of involvement of each of the petitioners, if any, in the alleged incident, as mandated by the Hon'ble Supreme Court in the authority

in Sharif Ahmed & Anr. Vs. State of Uttar Pradesh & Anr. reported in 2024 SCC Online SC 726.

In view of the above, this Court is inclined to hold that uncontroverted allegations made out in the FIR or the charge sheet do not disclose any cognizable offence against the petitioners and as such, allowing the proceeding to continue shall amount to abuse of process of the Court.

Accordingly, the revisional application being CRR 3790 of 2024 is allowed.

GR Case No.1250 (A) of 2023 pending before the learned Additional Chief Judicial Magistrate, Bidhannagar be quashed qua the petitioners.

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.)