

17-02-2025
Sl.no. 10
sk ,ct.3

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri**

**Criminal Revisional Jurisdiction
Appellate Side**

CRR No. 226 of 2023

In the matter of: Aroop Sarkar & Ors.
..... petitioners .

Dr. Arjun Chowdhury
Ms. Pratusha Dutta Chowdhury
Ms. Riya Agarwal
...for the petitioners.

Mr. Aditi Shankar Chakraborty,Ld. APP
Mr. Kallol Acharjee
...for the State.

The petitioners have challenged the legality and propriety of the criminal proceeding which has started pursuant to the Pradhannagar Police Station Case No. 428 of 2023 dated 11.6.2023, on the grounds that the FIR discloses only omnibus nature of allegations against them and the allegations made in the FIR, if taken even on the face value, would not disclose any cognizable offence against them.

Dr. Chowdhury, learned advocate appearing for the petitioners has submitted that the FIR is based on frivolous grounds and

untrue narratives, thereby not disclosing any specific allegations against any of the accused persons. He would say that such general and omnibus nature of allegation in general, is not in accordance with law to maintain a criminal proceeding against the petitioners.

Mr. Chakraborty, learned advocate is appearing for the State respondent. On the basis of the materials available in the case diary, he would submit that the witnesses are examined under Section 161 of Cr. P.C. though they have stated on the basis of hearsay.

For the rest, he has left the matter at the discretion of the Court.

Heard the submissions and perused the records.

Though in the FIR, the complainant has disclosed certain amount of allegations against the petitioners, but not in specific terms with respect to any of the accused persons. The informant has neither mentioned specifically the date of any alleged incident or the role as contributed by the petitioners respectively in commission of the crime as alleged.

At this juncture, the Court is also inclined to look into the other materials available in the case, since charge-sheet has already been submitted.

In case diary, the statement of the two neighbors' recorded under Section 161 of the Criminal Procedure Code, can be found from which, however, no tangible evidence would reveal. The witnesses have deposed on the basis of hearsay which evidence may not be acceptable by the Court in accordance with law.

The Court is inclined to refer to the judgment of *Kahkasham Kausar vs State of Bihar* reported in (2022) 6 SCC 599, to say that the settled law as has been discussed in the same is with regard to the non-maintainability of any omnibus allegations against the in-laws in a criminal proceeding, initiated due to material discord between the two persons.

The ratio thereof squarely applied in the present case where the Court is hardly to find any specific material against any of the petitioners.

Therefore, none of ingredients of the offence as alleged against the petitioners are

available in this case, at least prima facie, from the FIR or other materials on record. Hence, requirements under law in order to maintain a criminal proceeding is far-fetched. To further proceed with it is definitely an abuse of the Court's process and in that case Court's interference is only imperative.

For the reasons as above, this Court is inclined to find that the present revision is fit to be allowed.

Hence, it is directed that the revision being CRR 226 of 2023 is allowed.

The G.R.Case No. 2096 of 2023 under Section 498A of the Indian Penal Code, now pending in the Court of Additional Chief Judicial Magistrate, Siliguri (arising out of Pradhannagar Police Station Case No. 428 of 2023 dated 11.6.2023) is quashed.

Case diary be returned.

(Rai Chattopadhyay, J.)