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CRR 1719 of 2025

**Rimi Chowdhury & Ors.
Vs.
The State of West Bengal & Anr.**

Mr. Avijit Ghosal ...for the petitioners

Mr. Anand Keshari
Ms. Sudeshna Das ...for the State

The petitioners herein have assailed the proceeding being Special case no. 14 of 2024 arising out of Baranagar Police Station case no. 134 of 2024 dated 24.3.2024 under Sections 341/323/352/506/34 of the IPC read with Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, (in short, SCST Act), presently pending before learned Special Judge, Barasat.

Being aggrieved by the aforesaid proceeding, learned counsel for the petitioners submits that the allegations levelled against the petitioners were not substantiated during investigation. The opposite party no. 2 in order to wreck vengeance and in gross abuse of the process of law, has initiated the proceeding. He further submits that even if the materials, collected by the Investigating agency during investigation, coupled with the allegations contained in the written complaint are taken to be true, it does not make out offences alleged against the petitioners. The Investigating agency during investigation, did not find any evidence relating to the assault or voluntarily causing hurt by the petitioners

and therefore, the allegations of voluntarily causing hurt as alleged in the written complaint is nothing but conjectures and surmises created for the purpose of the instant proceeding. He further submits that no abusive words were hurled to the opposite party/complainant in order to attract the provisions of SCST Act. There appears to be no allegation of wrongful restraint or criminal intimidation also in the written complaint and therefore, Section 341/506 of the IPC has got no application in the present case. Therefore, continuance of proceeding any further will be mere abuse of process of the court and therefore he prayed for quashing of the entire proceeding.

Learned counsel for the State opposed the prayer contending that during investigation, police has collected incriminating materials against the accused, therefore, this is not a fit case where the proceeding can be quashed by the court, invoking this court's jurisdiction under Section 482 of the Code of Criminal Procedure read with Section 528 of the BNSS.

Having heard learned counsel for the petitioners and the State, it appears that the allegation levelled against the petitioners inter alia are to the effect that on 25.2.2024 around 13.10 hours, the petitioners went to the opposite party no. 2's house and barged on the door and when he came out of his house, the petitioners attacked him, beat him with shoe and abused him by uttering the words like "lower caste", "scheduled caste" etc. and had also threatened him to drive from the apartment. On hearing shouting of the accused persons/petitioners Avijit Biswas, Birojit Biswas,

Susanta Banerjee, Tanmoy Saha and many others were assembled at that time on the spot.

On perusal of statements recorded by investigating agency under Section 161 of the Cr.P.C. it appears that aforesaid FIR mentioned witnesses namely, Avijit and Birojit, clearly stated that they could only understand that both complainant and accused persons were quarrelling with each other but subject matter of quarrel is not known to them. Other two witnesses namely Susanta and Tanmoy have stated that they know nothing about the incident as alleged and even they were not present on the spot.

Therefore, the allegations levelled in the FIR even if taken to be true, it is clear that the words allegedly uttered during quarrel does not refer to any castigation for an offence to be established under the SCST Act. It is not enough to merely prove an altercation took place between a non-SC/ST person and a member of the SC/ST community. The core requirement is that the offence must have been committed specifically on account of the victim belonging to an SC/ST community. Therefore mere insulting or intimidating a member of the SC/ST community may not be an offence under the SCST Act, unless the intention was to humiliate the person based on his caste. In the instant case from FIR, it is clear that offence allegedly committed by petitioners is not caste-based but may be due to personal animosity and therefore allegations may or may not constitute offence under IPC/BNS but not necessarily under the SCST Act. Furthermore for offence under the Act, insult or intimidation must have occurred in a place within public view to constitute an atrocity under Section 3(1)(r) and the

same should be heard and witnessed by the outsiders, so as to ensure complainant's reputation and prestige gets diminished in the estimation of public at large. Such elements are conspicuously absent in the result of investigation as stated above. Since castigation or caste-based humiliation is a crucial ingredients for a conviction under the SCST Act, therefore without material in support of specific intent to demean based on caste, I find that any offence under the provision of SCST Act does not attract in the instant proceeding. Therefore, continuance of the instant proceeding against the petitioners under the provisions of SCST Act will be a mere abuse of process of the court and therefore there is no requirement to try the instant case by the Special Court.

In view of above, CRR 1719 of 2025 is hereby disposed of by directing the Special Court below to transmit the case record to the learned Chief Judicial Magistrate, who will fix a date for consideration of charge/charge hearing preferably within a period of 60 days from the date of communication of the order, to decide the fate of allegations levelled against the petitioners under the provisions of IPC/BNS and to proceed thereafter in accordance with law.

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

(Dr. Ajoy Kumar Mukherjee, J.)