

CRR 1467 of 2024

**Sushen Krishno Hawlader & Ors.
Vs.
The State of West Bengal & Anr.**

Mr. Soumyajit Das Mahapatra
Ms. Jeenia Rudra ...for the Petitioners

Mr. Debasish Roy, Ld. PP
Mr. Saryati Dutta
Ms. Trina Mitra Kundu ...for the State

The petitioners herein have prayed for quashing of the proceeding being G.R. case no. 1029 of 2012, presently pending before the learned Judicial Magistrate, 1st Court, Uluberia.

The petitioners' contention is that on 7.5.2012, the petitioner no. 3 herein lodged a written complaint before the Inspector-in-charge, Uluberia Police Station, alleging that the accused persons including the complainant herein had beaten him and his associates and also gave threats and had used abusive languages and has also stolen money and other valuable articles from the petitioner no. 3 and his associates. On the basis of such allegation, a case was started being Uluberia Police Station case no. 366 of 2012 dated 7.5.2012.

As a counter-blast of the aforesaid FIR lodged by the petitioner no. 3, herein the opposite party no. 2 herein lodged a written complaint to the effect that on 5.5.2012 at about 13.30 hrs. when the opposite party no. 2 had occupied a seat in a auto rickshaw, in order to reach his destination at that point of time, the petitioners went there and pressurized him to get down from the auto rickshaw so that they can avail the seat and when the

opposite party no. 2 refused to do so, all the petitioners allegedly abused him and assaulted the opposite party no. 2 and his auto driver and took away Rs. 4000/- from the possession of the opposite party no. 2. After completion of investigation, police has submitted charge-sheet against the petitioners under Section 341/323/506/34 of the IPC.

Being aggrieved by the aforesaid proceeding, learned counsel for the petitioners submits that the allegations made in the complaint, if they are taken at their face value and accepted in their entirety, it does not constitute any offence. The allegations levelled in the complaint are so absurd and inherently improbable on the basis of which no prudent person can say that there are sufficient ground for proceeding against the petitioners.

Relying upon the judgment of **Sharif Ahmed and another Vs. State of Uttar Pradesh and another** reported in **(2024) 14 SCC 122**, learned counsel for the petitioners submits that in violation of the ratio laid down in the said judgment, the charge-sheet also does not disclose any specific role played by each of the accused persons in committing the alleged offence. In fact, the entire proceeding sought to have been initiated is completely fake and manufactured proceeding and therefore, further continuance of the instant proceeding will be mere abuse of process of the court.

Learned counsel for the State placed the case diary and leaves the prayer made by the petitioner to the discretion of the court.

I have considered the submissions made by both the parties and also gone through the materials available in the case diary.

On perusal of the case diary, it appears that during investigation, no seizure was made nor any medical paper could be collected during investigation to substantiate the allegation levelled in the complaint. The Investigating agency has only recorded the statement of three witnesses and on perusal of the same, it appears that the allegations levelled therein does not attract any criminality and at best, a small skirmish had taken place over availing seats in auto between two sets of passengers, which does not warrant for criminal prosecution.

Furthermore, the charge-sheet also is silent with regard to the specific overt act attributable to each of the accused persons. Beside the statement that “*a prima facie case under section 341/323/506 IPC has been established against the accused persons*” nothing further is demonstrated in the charge sheet, as to how the investigating officer arrived at such conclusion and also how the role of each accused persons, if any, have been established. Therefore, the allegation is omnibus in nature and on the basis of such materials, there is hardly any chance of conviction of the petitioners at the end of trial.

Having considered the facts and circumstances of the case, I am of the view that further continuance of the instant proceeding will be mere abuse of process of the court and I find that this is a fit case whereby the instant proceeding is required to be quashed for the ends of justice, invoking this court’s jurisdiction under Section 482 of the Code of Criminal Procedure read with Section 528 of the BNSS.

In such view of the matter, CRR 1467 of 2024 is allowed.

The impugned proceeding being G.R. case no. 1029 of 2012, presently pending before the learned Judicial Magistrate, 1st Court, Uluberia is hereby quashed.

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.)