

02.

Ct.29

12.03.2026
Bd.

CRR 2566 of 2018

Rajesh Agarwal & Ors.

-vs-

The State of West Bengal & Anr.

Mr. Biplab Majumder ... for the petitioners

Mr. Arijit Ganguly
Ms. Suveni Banerjee ... for the State.

The petitioners herein have prayed for quashing of the proceeding being GR Case No. 4369 of 2018 pending before learned Chief Judicial Magistrate, Howrah.

The allegations leveled in the complaint inter alia to the effect that due to illegal encroachment and illegal construction of shades and for blocking common area there exists dispute between the family members of petitioner no. 1 and other flat owners including the defacto complainant. It is further alleged that accused nos. 4, 5, 6 and 7 abused the defacto-complainant with filthy languages and have also tried to kill her by setting fire keeping her inside the flat. It is further alleged that on 09.08.2018 all the accused persons again came and threatened to kill the defacto-complainant and also threatened that they have association with anti socials. It is further alleged that at that time accused nos. 1 and 2 had pulled the clothes of the defacto complainant and thereby had outraged her modesty.

Being aggrieved by the aforesaid proceeding learned counsel for the petitioners submits that the proceeding is a gross abuse of the process of the court and from the materials it does not constitute any offence either under section 447 or section

354/506/34 of the IPC. He further submits that it is admitted position that there has been long standing dispute between the petitioners and other residents including the defacto complainant. There have been series of complaints against the opposite Party no. 2. Prior to initiation of the present impugned proceeding the petitioner no. 4 herein had lodged a complaint against the opposite party no. 2 herein and two others and the said case was registered as Liluah Police Station Case No. 250/18 dated 30th July, 2018. In fact the instant proceeding is a counter blast to the previous complaint lodged by the petitioner no. 4 herein and is also a desperate attempt to exploit the legal process. The basic ingredients to constitute the offence as alleged in the written complaint is conspicuously absent and the defacto complainant has lodged the instant complaint only to harass the petitioners and therefore he submits that the proceeding against the present petitioners is liable to be quashed.

Learned counsel for the State opposed the prayer made on behalf of the petitioners and she placed the case diary and contended that charge has been framed against all the accused persons. In such circumstances, all the accused persons /petitioners should face the trial and at this stage the proceeding does not warrant for quashment.

I have considered the submissions made by both the parties and also perused the materials in the case diary. It appears from the statements recorded during investigation under section 161 as well as under section 164 that during investigation some materials have been collected by police in respect of the allegation

leveled against the petitioner nos. 1 and 2 herein but the allegations leveled against the other accused persons are bald evasive and omnibus and has not been substantiated during investigation. The charge-sheet has also not specified what are the exact role played by the petitioner nos. 3 to 7 in support of continuance of prosecution against them. It further appears that allegations leveled against the said petitioners even if taken to be true in its entirety it does not constitute any specific offence against the petitioner no. 3 to 7. In such circumstances, I find that further continuance of the proceeding against the said petitioners will be a mere abuse of the process of the court.

In such view of the matter, the impugned proceeding being GR Case No. 4369 of 2018 pending before learned Chief Judicial Magistrate, Howrah is hereby quashed qua the petitioner nos. 3 to 7 namely, **Sundarlal Agarwal, Smt. Indira Devi Agarwal, Preeti Agarwal, Gitesh Jain and Sabita Saraf.**

CRR 2566 of 2018 thus stands disposed of.

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

(Dr. Ajoy Kumar Mukherjee, J.)