

CRR 4565 of 2024

**Pankaj Kumar Jhunjhunwala & Ors.
Vs.
The State of West Bengal & Anr.**

Ms. Meenal Sinha
Ms. Dhimoyee Kundu ...for the petitioners

Mr. Joydeep Roy
Ms. Baishakhi Chatterjee ...for the State

Inspite of service private opposite party No.2/complainant is not represented.

The petitioners have preferred the instant application for quashing of the proceeding being G.R. case no. 3642 of 2023, presently pending before learned Chief Judicial Magistrate, Barasat.

It is alleged in the complaint that after the Annual General Meeting held on 23.9.2023, the erstwhile Directors of the Board, who are the petitioners herein and were led by the petitioner no. 5, threatened and defamed one Dr. Soumya Paik, a surgeon who had his clinic on the first floor of Galleria Building. Thereafter, upon conclusion of the meeting, the members went to the basement and found that the office was locked and the petitioner nos. 3 and 4 were missing. When the security personnel opened the door, with duplicate key they found that two laptops and two keys to the lockers in the office was missing and thereby they suspected the petitioners and had alleged commission of offence punishable under Section 448/500/406/506/34 of the IPC.

Being aggrieved by the said proceeding, learned counsel for the petitioners submits that on the self-same day, i.e. on 23.9.2023, the petitioner no. 5 had himself made a complaint prior to the instant complaint, which was registered as New Town Police Station case no. 299 of 2023 at about 16.25 hours, under Sections 448/323/506/34 of the IPC alleging about the illegal activities of the shareholders namely, Rajesh Mishra, the opposite party no. 2 herein and one Dr. Soumya Paik, accompanied by their men and agents, who forcibly and illegally disrupted the Annual General Meeting held on that day by physically assaulting the members of the Association and also by threatening their life and limb. As a retaliation and counter-blast of the said complain and in order to safeguard their interest, the instant complain has been lodged against the bona fide members of the Galleria Owners Association, which is a company registered under Section 8 of the Companies Act.

It is further submitted on behalf of the petitioners that the allegations are false and concocted in view of the fact that all articles, which were reported as missing by the opposite party no. 2, were all recovered from the Galleria building itself and therefore, the allegations levelled against petitioners including the petitioner nos. 3 and 4 are completely baseless.

To bring home the offence under Section 406 of the IPC, the ingredients of the entrustment with property having domain over it and that the same having been misappropriated or converted to their own use by the petitioners are completely absent in the instant case. The allegation of criminal trespass also does not stand against the petitioners who are bonafide

members of the Association. In order to attract the ingredients of Section 506 of the IPC, the intention of the accused persons must be to cause alarm to the victim. Mere expression of words without any intention to cause alarm would not suffice. Section 500 of the IPC has also got no application in the present context since there is no allegation of imputation making or publishing concerning any particular persons which is evident and therefore continuance of further proceeding against the present petitioners will be mere abuse of process of the court.

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

Having heard learned counsel for both the parties, it appears that the police has already submitted charge-sheet against the petitioners. However, from the case diary, it reveals that during investigation, only statement of two witnesses have been recorded, which does not disclose any offence against the petitioners. Furthermore, from the seizure list, it appears that the alleged missing articles were seized from the Galleria building that too not from the petitioners but from one Abdul Maji. Therefore, it is clear that the allegation as levelled against the petitioners does not stand and therefore, I am agreeable with the petitioners that continuance of further proceeding against the present petitioners will be mere abuse of process of the court, since there is hardly any chance of conviction of the petitioners at the end of trial on the basis of material collected during investigation.

In such view of the matter, CRR 4565 of 2024 is allowed. The impugned proceeding being G.R. case no. 3642 of 2023,

presently pending before the learned Chief Judicial Magistrate, Barasat, is hereby quashed.

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

(Dr. Ajoy Kumar Mukherjee, J.)