

(2023) 08 CAL CK 0081
In the Calcutta High Court
Case No : Criminal Revision No. 937 Of 2019

Panchanan Ghorai & Ors

APPELLANT

Vs

State Of West Bengal & Anr.

RESPONDENT

Date of Decision : 22-08-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 323, 341, 506
Code Of Criminal Procedure, 1973 — Section 156(3)

Citation : (2023) 08 CAL CK 0081

Hon'ble Judges : Shampa Dutt (Paul), J

Bench : Single Bench

Advocate : Prokash Chandra Mondal, Debabrata Mondal, Md. Kutubuddin

Final Decision : Allowed

Judgement

Shampa Dutt (Paul), J

1. The present revision has been preferred praying for quashing of the proceeding being Chandipur P.S. Case No. 84/18 dated 25.04.2018 and also the Charge Sheet No. 113/18 dated 30.06.2018 under Sections 341/323/506/34 of the Indian Penal Code arising out of G.R. No. 789/18.

2. The petitioners' case is that the petitioner no. 2 along with his mother purchased 19.395 decimal of land situated in R.S. and L.R. Khatian No. 1729 and 1789 and R.S. and L.R. Plot No. 981, J.L. No. 95, Mouja-Chaitanyapur, P.S. Chandipur, Dist. Purba Midnapur according to market price/value.

3. After purchasing the said land the petitioner no. 2 on 13.02.2018 went to give a boundary fence upon his land and one Amit Prodhan @ Rinku Prodhan, s/o Kenaram Prodhan of Chaitanyapur, Post-Bindabanpur, P.S.-Chandipur, Dist. Purba Midnapur created trouble and obstructed to put up the fence by demanding Rs.5,00,000/- (Five Lacs). The petitioner no. 2 was also threatened with murder if he failed to pay the said syndicate (demand) amount and out of fear he was forced to pay Rs.1,00,000/- (One Lac).

4. That due to non-payment of rest amount i.e. Rs.4,00,000/-, on 11.03.2018 at 10 a.m. he was further attacked by the said persons, when he was planting/trees on his land. On that day the said Amit Prodhan and the private opposite party gathered some antisocial elements including one female person namely Smt. Sankari Bag and attempted to murder the petitioner no. 2 by using deadly weapon like sharp "Bauti" and the petitioner no. 2 sustained serious bleeding injuries.

5. The private opposite party at that time with his antisocial elements snatched the mobile phone, gold chain and Rs. 2130/- of the petitioner no.

2. The opposite party no. 2 with his elements further tortured the petitioner no. 2 by inflicting "kil, char, ghusi and lathi" and pressurized the petitioner no. 2 to sign on a blank paper, which he was compelled to sign and he was also compelled to "kneel down and hold ears" by force as he belongs to the scheduled caste.

6. On 11.03.2018 the petitioner no. 2 lodged a general diary vide Chandipur P.S. G.D.E. No. 953 dated 11.03.2018 and he was sent to Health Centre, Chandipur for medical treatment by Chandipur P.S.

7. That against inaction on the part of the police authorities the petitioner no. 2 on 26.03.2018 moved an application being M.P. Case No. 137/18 under Section 156(3) of the Cr.P.C. before the Learned A.C.J.M. at Tamluk and the same was allowed. After receiving the said order of Learned A.C.J.M. the Officer of Chandipur P.S. instead of investigating the matter and or starting P.S. case against the accused persons, advised the accused persons to make a false written complaint against the petitioners.

8. As per advice of the Police authorities, the opposite party no. 2 made a false written complaint against the petitioners by moving an application under Section 156(3) of the Cr.P.C. vide M.P. Case No. 180/2018 before the Learned A.C.J.M. on 11.04.2018 which was allowed.

9. After receiving the said order in M.P. case no. 180/2018 Police of Chandipur P.S. started two P.S. Case at a time, one is against the petitioners vide Chandipur P.S. Case No. 84/18 and another is Chandipur P.S. Case No. 83/18 against the private opposite party and his associates.

10. Mr. Prokash Chandra Mondal, learned counsel for the petitioners has submitted that the proceeding which was initiated by Chandipur Police Station being Chandipur P.S. Case No. 84/18 is totally false and fabricated and as per instruction of Police M.P. Case No. 84/18 was started by the accused persons and after receiving the order, two cases were started, one after the other and as such the proceeding against the petitioners being Chandipur P.S. Case No. 84/18 should be quashed.

11. The petitioners state and submit that the facts and circumstances of the instant case and/or the complaint, does not prima facie make out a case against

the petitioners and the same also does not disclose the commission of any offence against the petitioners as alleged. The complaint is so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient grounds for proceeding against the petitioners.

12. The petitioners state and submit that the criminal proceeding against the petitioners herein is manifestly attended with mala fide and/or the proceeding against the petitioners herein is maliciously instituted with an ulterior motive for streaking vengeance on the petitioners and as such the proceeding against the petitioners should be set aside and/or quashed.

13. The opposite party no. 2/complainant has refused service.

14. Mr. Md. Kutubuddin, learned counsel for the State has placed the case diary.

15. From the injury report at page 56 of the case diary, it appears that the injured Sankari Bag, aged 35 years was treated by a Homeopathic doctor, Dr. Ramkrishna Bag. There is neither any diagnosis nor any history stated by the patient.

16. There is thus absolutely no materials on record including the case diary to substantiate the offences as alleged and no prima facie case against any of the petitioners.

17. The revisional application being CRR 937 of 2019 is accordingly allowed.

18. The proceeding being Chandipur P.S. Case No. 84/18 dated 25.04.2018 and also the Charge Sheet No. 113/18 dated 30.06.2018 under Sections 341/323/506/34 of the Indian Penal Code arising out of G.R. No. 789/18 is hereby quashed.

19. All connected applications, if any, stands disposed of.

20. Interim order, if any, stands vacated.

21. Copy of this judgment be sent to the learned Trial Court for necessary compliance.

22. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.