

(2024) 01 CAL CK 0081
In the Calcutta High Court
Case No : Criminal Revision No. 2507 Of 2022

Rabin Sasmal @ Rabindra Nath Sasmal & Anr.

APPELLANT

Vs

State Of West Bengal & Anr.

RESPONDENT

Date of Decision : 29-01-2024

Acts Referred:

Indian Penal Code, 1860 — Section 34, 307, 325, 341, 354, 506
Code Of Criminal Procedure, 1973 — Section 161

Citation : (2024) 01 CAL CK 0081

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

Bench : Single Bench

Advocate : Pinak Kr. Mitra, Ariba Shabad, Rituparna De Ghosh, Siddhartha Paul, Soumyadeep Ghosh, Puspita Saha

Final Decision : Allowed

Judgement

Shampa Dutt (Paul), J

1. The present revisional application has been preferred praying for quashing of proceedings in connection with G.R. No. 1010/2015 arising out of Bidhannagar (North) Police Station Case No. 289/2015 dated 14.11.2015 under Sections 341/325/354/506/307/34 of the Indian Penal Code and Charge Sheet No. 96/2016 dated 31.05.2016 under Sections 341/325/354/506/307/34 of the Indian Penal Code and corresponding to S.C. No. 289/2017 and all orders passed therein, now pending before the Court of the Learned Additional District & Sessions Judge, Fast Track Court – 5, Barasat, North 24 Parganas.

2. Vide an order dated 20.12.2019 the Learned Additional Session Judge, Fast Track Court No.5, Barasat, North 24 Parganas has been pleased to reject the petitioners' prayer for discharge from the present case.

3. FACTS:-

The petitioners' case is that the petitioner no. 1 is an electrician by occupation and petitioner no. 2 is the wife of petitioner no.1 and both the petitioners have

their original house at Tulsiberia, within the jurisdiction of Uluberia Police Station in Howrah district. The petitioner no. 2 is the care-giver of Shefali Chakraborty who is an aged and bed ridden lady of about 91 years and the mother in law of the complainant.

4. On the basis of the written complaint lodged by the opposite party no.2, the instant police station case has been commenced inter alia alleging that:-

"After getting retired from the services, the informant and her husband came back to their house situated at BD-140, Salt Lake City in the year 2013. Since then, the informant's sister-in-law namely Basudha Chakraborty, brother-in-law namely, Sankar Prasad Chakraborty, uncle-in-law namely, Swapan Mukherjee and their faithful namely, Rabin Sasmal and his wife namely, Monika Sasmal started assaulting the informant and her husband verbally and physically as well as the said accused persons used to abuse the informant and her husband with filthy languages. On 12.11.2015 at about 11.30 a.m. the accused persons namely, Swapan Mukherjee, Rabin Sasmal and his wife Monika Sasmal was doing something in the electric meter room and when the informant's husband went there for asking them, the aforesaid accused persons used slang languages. When the informant's husband tried to take photographs of their activities under the instruction of the accused Swapan Mukherjee the said accused person namely Rabin Sasmal caught hold of the informant's husband's hand and accused Swapan Mukherjee assaulted him physically by beating him brutally on his chest, neck and ear in order to kill him. On hearing his hue and cry, the informant came to rescue her husband and the informant was verbally abused by the accused with slang languages and the accused also tried to outrage the modesty of the informant. Then on hearing the hue and cry of the informant/accused persons left the informant's husband and locked the door. Thereafter the informant with the help of her neighbor Argho took her husband to the Bidhannagar Hospital. The informant's husband was suffering from severe chest pain and breathing trouble. On seeing her husband's condition, Bidhannagar Hospital referred the informant's husband to NRS Hospital but the informant took her husband to ILS Hospital where he was treated."

5. On the basis of the complaint registered with Bidhannagar Police Station, Bidhannagar North, P.S. Case No. 289/2015 dated 14.11.2015 was started against the petitioners & Ors. under Sections 341/325/354/506/307/34 of I.P.C. and Charge Sheet has been submitted.

6. The petitioners stated that the mother-in-law of the Opposite Party No.2/ complainant is an aged and bed ridden lady aged about 91 years and the husband of the Opposite Party No. 2 (being the elder son) is negligent towards his mother. The Opposite Party No. 2 and her husband have neglected the needs of the aged lady and do not attend to her nor are they involved in maintaining her or tending to her well-being. The younger son of Shefali Chakraborty namely Sankar Prasad Chakraborty and his wife namely Basudha Chakraborty are residing in Mumbai, Maharashtra for the past 16 years. However, despite that

they take care of their mother and tend to the needs of such an aged patient and in order to do that properly they have appointed the petitioner No.2 to take care of the aged ailing mother.

7. The petitioners state that the informant's husband and the said Sankar Prasad Chakraborty are brothers and there are several pending litigations between them. The present proceeding is yet another one wherein the petitioners herein have been entangled so that they leave the job of care-giving of the aged lady.

8. The petitioners further state and submit that the duty of the Petitioner no.2 as the care giver of the mother-in-law of the Opposite Party no. 2 is for 12 hours i.e. from 8am to 8pm every day and for next 12 hours another care giver has been appointed. The petitioner no.1 has no role whatsoever, either professional or personal, to be at the house where the alleged incident is said to have taken place and his only connection with the issue is that his wife i.e. the Petitioner No.2 works in that house as the care-giver of the patient of 91 years. The petitioners are rustic villagers and they have been arraigned as accused persons so that the petitioner No. 2 leaves the employment of the said Shankar Prasad Chakraborty and Basudha Chakraborty and thus it will create problems for them to look after their mother from Mumbai.

9. Hence the revision praying for quashing of the proceedings.

10. FINDINGS:-

The petitioner No.1 herein is the husband of the petitioner no. 2 who is the care giver of the mother-in-law of the complainant employed by younger son & his wife who live in Mumbai.

11. Admittedly there is a family property dispute between the parties.

12. The Court while granting anticipatory bail to the petitioner no.2 herein observed:-

"..... From a reading of the statements recorded under Section 161 Cr.P.C., the abusive language used is not specific but omnibus in nature, in the FIR filed."

13. The husband of the Complainant, Narayan Prasad Chakraborty, allegedly the injured, has stated before the police that the petitioners abused him in filthy language when he enquired about what they were doing. The said allegation was found to be omnibus and not specific. Narayan Prasad Chakraborty also stated that when he tried to take their pictures, they allegedly assaulted him and also assaulted his wife when she went to save him. He had further stated that he was then medically treated.

14. There are no medical papers to show that the defacto complainant was also assaulted.

15. Medical papers of the alleged victim Narayan Prasad Chakraborty are as follows:-

i) Emergency ticket dated 12.11.2015 of Salt Lake Sub-divisional Hospital, BD Block, Kolkata – 64. This document does not show any injury.

ii) Next is the ECG Report.

iii) Prescription dated 12.11.2015 also does not show any injury. He was then referred to any State Hospital.

iv) The Discharge Certificate dated 16.11.2015 of ILS Hospital, Salt Lake is at page 38 of the Case Diary.

Diagnosis:- Grievous Multiple injury in chest, abdomen, neck & shoulder region (no description of the alleged injuries has been noted).

16. The patient on discharge was advised the following medicines:-

i) Tab Attor (10mg) - 1 tab once daily at night to continue.

ii) Tab Galvus (50/500)- 1 tab twice daily before food to continue.

iii) Tab Aten (25mg) - 1 tab once daily to continue.

iv) Tab Telist (80mg)-1 tab once daily to continue.

v) Tab Pyrigesic (500gm) - 1 tab SOS.

vi) Tab Pantodac (40mg)-1 tab twice daily to continue.

vii) Syr. Mucaïne Gel-2 tsf thrice daily.

viii) Tab Ecosprin (25mg) - 1 tab once daily after breakfast.

17. None of the medicines advised are medicines for treating grievous or any other injuries.

18. There are no other Medical Papers to substantiate the injuries as alleged.

19. As to why no medicines were prescribed for the Diagnosed grievous multiple injuries is best known to the hospital. But for this Court to come to a conclusion as to the alleged assault leading to injuries, there are no evidence on record to support the case of the complaint in this case to even prima facie make out a case against the petitioners of the offences alleged.

20. The discussions above go to prima facie show that the injury report of the private hospital is not reliable.

21. No injuries have been noted in the Medical Papers of the Govt. Hospital where the injured was treated at first. Though the private hospital has noted 'grievous injuries', details are not given. Nor has any medicine been prescribed for any grievous injury.

22. CONCLUSION:-

It is on record that the parties have a family property dispute and a minor

altercation might have occurred, but the materials on record do not make out a prima facie case against the petitioners as alleged.

23. CRR 2507 of 2022 is allowed.

24. The proceedings in connection with G.R. No. 1010/2015 arising out of Bidhannagar (North) Police Station Case No. 289/2015 dated 14.11.2015 under Sections 341/325/354/506/307/34 of the Indian Penal Code and Charge Sheet No. 96/2016 dated 31.05.2016 under Sections 341/325/354/506/307/34 of the Indian Penal Code and corresponding to S.C. No. 289/2017 and all orders passed therein, now pending before the Court of the Learned Additional District & Sessions Judge, Fast Track Court – 5, Barasat, North 24 Parganas, is hereby quashed in respect of the petitioners namely Rabin Sasmal @ Rabindra Nath Sasmal and Monika Sasmal @ Manika Sasmal.

25. All connected applications, if any, stand disposed of.

26. Interim order, if any, stands vacated.

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

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