

(2024) 03 CAL CK 0029

In the Calcutta High Court

Case No : Criminal Revision No. 1476, 2305 Of 2023

Sajal Bose & Anr.

APPELLANT

Vs

State Of West Bengal & Anr.

RESPONDENT

Date of Decision : 08-03-2024

Acts Referred:

Indian Penal Code, 1860 — Section 143, 323, 324, 341, 354, 427, 504, 506, 509
Code Of Criminal Procedure, 1973 — Section 164

Citation : (2024) 03 CAL CK 0029

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

Bench : Single Bench

Advocate : Ayan Bhattacharjee, Shounak Mitra, Zulfiquar Ali Alquadari, Sabir Ahmed, Shraman Sarkar, Dhiman Banerjee, Suman De, Tasnim Ahmed, Uday Kumar Chatterjee, Suman Sankar Chatterjee, Subhadeep Ghosh, Prosenjit Chowdhury, Lord Chatterjee, Avirup Banerjee, Soumya Chatterjee, Suva Batabyal, Rishabh Rajkhowa, Madhuparna Chakraborty, Debalina Das, Bidyut Kr. Roy, Sima Biswas, Sudip Ghosh, Bitasok Banerjee

Final Decision : Disposed Of

Judgement

Shampa Dutt (Paul), J

1. The present revision has been preferred praying for quashing of the proceedings being charge sheet no. 135 of 2022 dated 16.12.2022 under Sections 143 /341 /323 /324 /504 /506 /509 /427 /354 of the Indian Penal Code, 1860 arising out of Survey Park Police Station Case No. 150 of 2022 dated 18.10.2022 under Sections 143 /341 /323 /324 /504 /506 /509 /427 and adding Section 354 of the Indian Penal Code, 1860 in connection with A.C.G.R. No. 4659 of 2022, pending before the Learned Additional Chief Judicial Magistrate, South 24 Parganas at Alipore.

FACTS:-

2. The petitioners' state that on October 18, 2022, the opposite party no.2 lodged a complaint with the Survey Park Police Station therein alleging

commission of offences punishable under Sections 143 /341 /323 /324 /504 /506 /509 /427 of the Indian Penal Code, 1860 against the accused persons including the petitioners herein.

3. Accordingly, the present proceeding being Survey Park Police Station Case No. 150 of 2022 dated October 18, 2022 under Sections 143/341/323/324/504/506/509/427 of the Indian Penal code, 1860 was registered for investigation against the accused persons including the petitioners.

4. The investigating officer, on completion of investigation, filed charge-sheet before the Court of the Learned Additional Chief Judicial Magistrate at Alipore (for short "Learned ACJM") on December 19, 2022 being Charge-Sheet No. 135 of 2022 dated December 16, 2022 under Sections 143/341/323/324/504/506/509/427 and 354 of the Indian Penal Code, 1860 against as many as eight accused persons including the petitioners herein, who were arrayed as accused nos. 7 and 8.

5. The petitioners state that the opposite party no. 2 is a lawyer by profession who is attached to the Court of Learned District & Sessions Judge at Alipore (now retired). The opposite party no.2, therefore, using his influence has engineered the present proceedings in order to spite the petitioners and to expose them to the chilling effect of arrest and persecution.

6. The petitioners state that the opposite party no. 2 is a resident of the same building wherein the petitioners reside. On account of his contentious nature, there are previous proceedings initiated by and between the opposite party no.2 and other inmates of the building including the petitioners herein.

7. The opposite party no. 2/complainant has filed the written complaint alleging that:-

On 11th October, 2022, at about 9.20 p.m., Sourav Sen entered the premises of our apartment by breaking the main door which was earlier damaged by their scooter purportedly and when my family reminded them of closing the door he started hurling abuses to us in filthy and objectionable language by quoting names of parents (BAAP). His father and mother then joined him like their earlier nuisances. Suddenly, their whole assistants, who always pressurize us for money while avoiding the maintenance amount spent by us, started hurling abuses. After sometime, when I went to lock the door as valuables for Lakshmi Puja are there in our flat, Mr. S. Sen, who stays as Ghar Jamai in the locality and is known for questionable character with involvement of some Tarun Sengupta, one of their illegal activities is highlighted by their maid's son, which is their involvement in a girl kidnapping case in Baruiপুর Court, started arguing that his scooter is damaged which was later found out to be inflicted by him. When asked why the scooter has not been removed from the Electric Meter Boxes as earlier instructed by the local P.S., then the whole team arrived and started physically assaulting me with an intention to hurt me on my pace-maker, threw sandals, charged lathi, which was guarded by my family and instead they started beating

her with an intention to loot valuables from my flat. They started by slapping, kicking on my pacemaker, approached my flat for ransacking with a lathi, use of abusive language, threat to send to brothel or to finish us and ended with Sourav Sen spitting and with threats given by Mr. Sajal Bose and his wife, which will be revealed by CCTV Clipping. Though they stay upstairs, they came down and were so desperate that Mr. Sautrik Joardar, (Non-merited/payment-quota student) under the instigation of his parents and friends threatened us to vacate the flat. They even challenged the ownership and education of doctorate.

They always create health hazards by street-dog and cat feces and sometimes their own excreta which were duly recorded. Earlier complaint was made through e-mail as Mr. Chandidas Joardar and his son kept the AC hose open and threatened to burn me by electrocution. Recovery of some of our gold items was also made earlier by Survey Park P.S. The other misappropriated gold items are still with Tarun Sengupta, his wife and all others. Now their monetary demand and threat has reached such an extent that they wanted to kill us today. They even keep outsiders without any documents/identification for some reason.

8. Charge Sheet in the present case has been filed for offences punishable under Sections 143 / 341 /323 /324 /504 / 506 /509 /427 /354 of the Indian Penal Code.

FINDINGS:-

9. From the materials on record and the case diary it is evident that an altercation took place between the parties at their premises, where they all reside. The dispute between them also relates to the said property and the said dispute seems to be on a regular basis.

10. The allegations against the petitioners Sajal Bose and his wife are that they allegedly gave threats when the said altercation took place mainly between the Complainant and Sourav Sen and his parents. There is also specific allegation against Sautrik Joardar, Tarun Sengupta. Dr. Aparajita Bandhopadhaya a family member of the complainant has recorded, her statement under Section 164 Cr.P.C. and has stated in details about the role played by the accused persons including overtact by Chandidas Joardar. Her medical reports prima facie show that she had been assaulted.

11. Other than the statements of the complainant and his family members, Dr. Aparajita Bandopadhaya there are statements of all the accused persons recorded during investigation.

CONCLUSION:-

12. It thus appears that there is no prima facie case to go to trial for the offences alleged against accuseds Pampa Joardar, and Nabina Bose and accordingly the proceedings being charge sheet no. 135 of 2022 dated 16.12.2022 under Sections 143 /341 /323 /324 /504 /506 /509 /427 /354 of the Indian Penal Code, 1860 arising out of Survey Park Police Station Case No. 150 of 2022 dated

18.10.2022 under Sections 143 /341 /323 /324 /504 /506 /509 /427 and adding Section 354 of the Indian Penal Code, 1860 in connection with A.C.G.R. No. 4659 of 2022, pending before the Learned Additional Chief Judicial Magistrate, South 24 Parganas at Alipore, is quashed in respect of accused Pampa Joardar and Nabina Bose.

13. The trial shall proceed in respect of rest of the accused persons.

14. Learned Magistrate to proceed with the case expeditiously.

15. CRR 1476 of 2023 with CRR 2305 of 2023 are accordingly disposed of.

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

17. Interim order, if any, stands vacated.

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

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