

(2021) 06 CAL CK 0100

In the Calcutta High Court

Case No : IA No. CRAN/9/2020 (Old No. CRAN/1253/2020) In Criminal Revision
No. 272 Of 2018

Sudhir Ahuja & Anr.

APPELLANT

Vs

State Of West Bengal & Anr

RESPONDENT

Date of Decision : 23-06-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 34, 207, 482

Indian Penal Code, 1860 — Section 34, 188, 323, 341, 323, 354, 506, 509

Citation : (2021) 06 CAL CK 0100

Hon'ble Judges : Bibek Chaudhuri, J

Bench : Single Bench

Advocate : Sandipan Ganguly, Dipanjan Dutta, Soni Ojha, Debjani Sahu, Saryati Dutta

Final Decision : Disposed Of

Judgement

The instant criminal revision arises out of an application under Section 482 of the Code of Criminal Procedure filed by the accused/petitioners praying

for quashing of the proceedings of C.G.R. Case No. 4549 of 2016 pending before the Court of the Learned Chief Judicial Magistrate, Alipore.

Salient facts necessary for the disposal of the instant revision is as follows:-

On the basis of a written complaint submitted by the opposite party no. 2 before the Officer-in-Charge, Karaya Police Station Case No. 606 dated 4th

October, 2016 was initiated. In the written complaint it was stated by the de facto complainant that she is the occupier of 29, Broad Street by virtue of

an agreement dated 19th November, 2014 by and between Mint Matrix, a firm of the opposite party and Green Band Apartments Pvt. Ltd. The

petitioners are the director and an employee respectively of the lessor company. The de facto complainant and her husband run a hotel business in the

said premises. On 30th September, 2016, the security guards of the said building under the instruction of the petitioners started threatening the guests staying in the hotel and stopped them from entering into hotel. They also threatened the husband of the de facto complainant and one Arindam, a mechanic of EPABX system. The said security guards manhandled the husband of the de facto complainant, a lady employee and a lady guard of the hotel.

Investigation of the case culminated into filing charge-sheet against the petitioners under Sections 341/323/354/506/509/188/34 of the Indian Penal Code. The Learned Chief Judicial Magistrate, Alipore took cognizance of the offence and issued process against the accused/petitioners.

The petitioners have prayed for quashing of the charge-sheet and the proceeding of C.G.R. Case no. 4549 of 2016 on the ground that there is no iota

of evidence against the petitioners of having committed such offence. The petitioners were not even present at the spot. There is also no evidence that

they engaged 6/7 security guards who allegedly manhandled the husband, one lady employee and a lady security guard of the de facto complainant

and the said hotel respectively. There is no evidence collected by the Investigating Officer to implicate the accused persons with the aid of Section 34

of the Code. Section 188 has no manner of application in the instant case because the complaint was not lodged by any public servant. In view of such

circumstances, the petitioners have prayed for quashing the charge-sheet and the entire proceeding arising out of the said charge-sheet being C.G.R.

Case No. 4549 of 2016.

I have heard Mr. Sandipan Ganguly, the Learned Senior Counsel on behalf of the petitioners and Mr. Saswata Gopal Mukherjee, Learned Public

Prosecutor.

Mr. Ganguly submits referring to the written complaint filed by the opposite party no. 2 and the documents which the accused persons/petitioners

received in compliance with Section 207 of the Code that there is absolutely no evidence against the accused persons to hold even prima facie that

they committed offence under Sections 341/323/354/506/509/188/34 of the Indian Penal Code. The Investigating Officer failed to collect any evidence

to the effect that the accused persons were involved in committing any offence punishable the above penal provisions of the Indian Penal Code. There

is also no evidence that they employed 6/7 security guards to commit such offence.

Learned Public Prosecutor has placed the Case Diary with usual fairness he concurs with the submission made by Mr. Ganguly. It is submitted by him

that police wrongly submitted charge-sheet against the accused persons/petitioners without collecting any material against them.

I have independently perused the entire Case Diary. I am also in concurrence with the submission made by the Learned Counsels that there is no

material against the petitioners to face trial in C.G.R. Case No. 4549 of 2016. In view of the above discussion, the instant criminal revision is allowed

on contest. The charge-sheet bearing No. 141 of 2017 and corresponding C. G. R. Case No. 4549 of 2016 pending before the Learned Chief Judicial

Magistrate, Alipore is quashed. All orders passed by the Learned Magistrate in C.G.R. Case No. 4549 of 2016 are also set aside and quashed.

The revisional application is, thus, disposed of on contest, however, without cost.

Parties are at liberty to act on the server copy of this order.