

(2022) 06 CAL CK 0013
In the Calcutta High Court
Case No : C.R.R. No. 3450 Of 2019

Sudip Guin & Anr.

APPELLANT

Vs

State Of West Bengal & Anr.

RESPONDENT

Date of Decision : 10-06-2022

Acts Referred:

Indian Penal Code, 1860 — Section 143, 307, 323, 341, 354B, 379, 427
Code Of Criminal Procedure, 1973 — Section 161

Citation : (2022) 06 CAL CK 0013

Hon'ble Judges : Ajoy Kumar Mukherjee, J

Bench : Single Bench

Advocate : Tapas Kr. Ghosh, Tanmay Choudhury, S. G. Mukherjee, Arijit Ganguly, Debjani Sahu

Final Decision : Allowed

Judgement

Ajoy Kumar Mukherjee, J

1. This revisional application has been preferred for quashing of the proceeding being G.R. No.360 of 2019 arising out of Chanditala Police Station Case No. 85 of 2019 dated 26.2.2019 under Sections 143/341/323/307/354B/427/379 of the Indian Penal Code and also order dated 7.8.2019 by which cognizance of the offences has been taken by the Magistrate in view of the charge-sheet submitted on 30.3.2019.

2. Petitioners contended in this revisional application that the predecessors-in-interest of the present petitioners filed a suit for eviction of licensee against one Champa Rani Das and others and their predecessors-in-interest, before the Civil Court and the suit was ultimately decreed and the said decree was put in execution. The judgement-debtors tried to obstruct the execution of the decree taking various illegal measures and in spite of repeated defeats the judgement-debtors did not allow the court bailiff to execute the writ of possession in respect of decreetal property. Subsequently, the judgement-debtors have set up the opposite party no.2, who filed a fraudulent civil suit against the predecessors-in-

interest of the present petitioners. The said opposite party no.2 being the set-up lady of the judgement-debtor, did not stop to harass and humiliate the present petitioners, who are the reputed government employees and thereby lodged complaint before the Officer-in-Charge, Chanditala Police Station on frivolous allegations being Chanditala Police Station Case No.85 of 2019 dated 26.2.2019 under Sections 143/341/323/ 307/354B/427/379 of the Indian Penal Code.

3. On apprehension of arrest the present petitioners prayed for anticipatory bail and the learned Sessions Judge finding that there is no material to implicate the present petitioners, granted anticipatory bail.

4. It is the specific case of the petitioners that though the Investigating Officer submitted charge-sheet against the present petitioners along with other accused persons on 30.3.2019 but save and except mentioning the names of the present petitioners at the title of the F.I.R., no specific overt act has been attributed by the opposite party herein in the said complaint against the present petitioners. Furthermore, during investigation no incriminating material could be collected by the Investigating officer. Though in four corners of the allegation as well as in the statements of the witnesses as recorded by the Investigating Officer under Section 161 of the Cr.P.C. during investigation, no incriminating material is found to be present against present petitioners but on the basis of so-called charge-sheet, the learned Additional Chief Judicial Magistrate in a routine and casual manner and without applying his judicial mind and without appreciating the materials available before him, took cognizance of offence without assigning any reason, against the present petitioners on 7.8.2019 which is absolutely bad in law.

5. Being aggrieved by and dissatisfied with the continuation of the proceedings of G.R. No.360 of 2019 and also taking cognizance by the Magistrate as stated above, the petitioners herein have prayed for quashing the entire proceeding against the present petitioners.

6. Ms. Debjani Sahu, learned Advocate appearing on behalf of the State concedes that materials in the case diary does not disclose any offence against the present petitioners.

7. A coordinate Bench of this Court vide its order dated 27.11.2019 was also pleased to observe – “I find that charge-sheet has already been submitted in connection with the instant case. However, 161 statements of the complainant and her daughter-in-law do not reflect the name of the petitioners”.

8. Having considered the submissions made by both the parties and also in view of the materials available in the case diary, it appears that the trial court has taken cognizance of the offence against the present petitioners in a casual and mechanical manner which is bad in law and as such, the said proceeding against the present petitioner is liable to be quashed as the material in the case diary does not disclose any offence against the present petitioners.

9. In view of the above, the proceeding being G.R. No.360 of 2019 arising out of Chanditala Police Station Case No.85 of 2019 against the present petitioners, is quashed and the order dated 7.8.2019 taking cognizance of the offence against the present petitioners is set aside.

Accordingly, C.R.R. 3450 of 2019 is allowed.

However there will be no order as to costs.

Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.