
(2005) 02 CAL CK 0063
In the Calcutta High Court
Case No : C.R.R. No. 1189 of 2004

Swarup Kumar Mondal

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision : 25-02-2005

Acts Referred:

Penal Code, 1860 (IPC) — Section 249, 354, 509

Citation : (2005) 3 CHN 194

Hon'ble Judges : Arun Kumar Bhattacharya, J

Bench : Single Bench

Advocate : Pranati Goswami and S.C. Hazra, for the Appellant; Kasem Ali, for the Respondent

Final Decision : Dismissed

Judgement

Arun Kumar Bhattacharya, J.—The hearing stems from an application filed by the petitioner praying for quashing the chargesheet being No. 90 of 2002 dated 31.05.2002 arising out of Golsi P.S. Case No. 79 of 2002 dated 31.05.2002 under Sections 294 & 509 IPC pending before the Court of Id. SDJM, Burdwan.

2. The petitioner's case is that on the complaint lodged on 31.05.2002 by the de facto complainant Soma Dutta, who is a student of Class-IX of Khano High School alleging that on 02.04.2002 the present petitioner, who is an Assistant Teacher of the said school, called her in the first floor of the school, and told that he loves her and gave an indecent proposal on alluring to give her text books. On 31.05.2002 at about 11.00 a.m. he further called her to the first floor of the school and forcibly tried to outrage her modesty which she could not disclose earlier out of shame. On the basis of said complaint, Golsi P.S. Case No. 79 of 2002 dated 31.05.2002 under Sections 294 & 509 IPC was started against the present petitioner and after completion of investigation chargesheet was submitted against the petitioner on that very date.

3. Mrs. Pranati Goswami, Id. counsel for the petitioner, on referring to the copies

of FIR, formal FIR, forwarding report, chargesheet and ordersheet of the Id. Court below contended that on the very date of lodging complaint i.e. 31.05.2002 investigation was completed and chargesheet was submitted which is next to impossible and that there being no material of the alleged offence under Sections 294 & 509 IPC the proceeding is liable to be quashed. Mr. Kasem Ali, Id. counsel for the State, on the other hand, on referring to the materials in the CD contended that when there are sufficient materials bearing out a cognizable offence committed by the petitioner and chargesheet has been submitted showing existence of a prima facie case, the question of quashing the criminal proceeding at the instance of one Debajyoti Sanyal who is a stranger having no connection with the case and as such no locus standi to ask for relief, does not arise at all.

4. Quashing of proceeding to prevent abuse of the process of the Court or otherwise to secure the ends of justice may be done where (1) it appears that there is a legal bar against the institution or continuance of criminal proceeding in respect of the offence alleged e.g. absence of requisite sanction, or (2) the allegations in the FIR or the complaint even if they are taken at their face value and accepted in their entirety do not constitute the offence alleged, or (3) the allegations made against the accused person do constitute an offence alleged but there is either no legal evidence adduced in support of the case or the evidence adduced clearly or manifestly fails to prove the charge. In this connection, reference may be made to the case of R.P. Kapur Vs. The State of Punjab, and State of Haryana and others Vs. Ch. Bhajan Lal and others, . It is to be borne in mind that the power to quash an FIR by this Court can be exercised very sparingly and with circumspection and that too in the rarest of the rare cases. At this stage the Court cannot inquire about reliability or genuineness or otherwise of the allegations made in the FIR nor it can inquire whether the allegations are likely to be established or not, as was held in the case of M. Narayandas v. State of Karnataka, reported in 2004 SCC 118.

5. Whether an investigation can be completed early or not hinges upon the nature of offence, number of witnesses, involvement of the necessity of chemical examination, expert's opinion, requisite sanction for prosecution etc. Where the number of witnesses are few and no complication is involved, investigation can ordinarily be expected to be completed quickly. So, merely because the investigation in the present case was completed on the very date of lodging an FIR, it will not give rise to any doubt about the investigation. A glance to the CD appears to disclose a cognizable offence not only u/s 509 but also u/s 354 IPC, and so none of the aforesaid situation being involved here, the question of quashing the criminal proceeding arising out of Golsi P.S. Case No. 79/2002 dated 31.05.2002 against the petitioner, now pending in the Court of Id. SDJM, Burdwan, is out of the way.

6. Accordingly, there being no merit in the present application, it be dismissed on contest but without any cost in the circumstances.

7. Let a copy of this order be sent down at once to the Id. Court below.