

(2022) 06 CAL CK 0093
In the Calcutta High Court

Case No : Criminal Revision No. 207 Of 2022, CRAN 3 Of 2022

Tapas Dinda & Anr.

APPELLANT

Vs

State Of West Bengal

RESPONDENT

Date of Decision : 29-06-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 161, 164

Indian Penal Code, 1860 — Section 34, 323, 325, 341, 354, 379, 506, 509

Citation : (2022) 06 CAL CK 0093

Hon'ble Judges : Bibek Chaudhuri, J

Bench : Single Bench

Advocate : Rajdeep Mazumdar, Pritam Ray, Swapan Banerjee, Anindya Sundar Chatterjee

Final Decision : Dismissed

Judgement

Bibek Chaudhuri, J

1. Petitioners are the FIR named accused persons of Nandakumar Police Station Case No.364 of 2021 dated 31st August, 2021 under Sections 341/323/354/506/509/34 of the IPC corresponding to G.R Case No.2235 of 2021, presently pending before the learned Chief Judicial Magistrate, Purba Medinipur.

2. In the instant application the petitioners have prayed for quashing of the aforesaid case instituted against them on the basis of a written complaint submitted by one Sushama Midya.

3. It is not in dispute that opposite party No.2/defacto complainant is a Gram Panchyat Member and she was distributing forms of Duare Sarkar Project in her personal capacity. Over the said issue, a dispute cropped up between the opposite party No.2 and the petitioners because Duare Sarkar forms are to be distributed by the Block Development Officer. The petitioners were mercilessly beaten by the opposite party No.2 and his men and agents on 24th August,

2021. Petitioner No.1 lodged a complaint in the local P.S on the basis of which Nandakumar Police Station Case No.363 of 2021 dated 30th August, 2021 under Sections 341/323/325/379/506/34 of the IPC was registered. It is alleged by the petitioners that subsequent case initiated by the opposite party No.2 is out and out a false case. The petitioner No.1 was severely assaulted on 24th August, 2021. He was medically treated at Purba Medinipur District Hospital as an injured patient. He was discharged from the hospital in 28th October, 2021 and immediately after his discharge the opposite party No.2 filed a written complaint with an allegation that on 29th August, 2021 the accused persons wrongfully restrained her, assaulted her, outraged her modesty and intimidated her.

4. This Court has heard submission made by Mr. Rajdeep Mazumdar on behalf of the petitioners and the learned P.P-in-Charge. The learned P.P-in-Charge has also submitted the copy of the case diary of Nandakumar Police Station Case No.364 of 2021. On careful perusal of the case diary, it is asserted that on 29th August, 2022, the opposite party No.2 received injury on her chest and she was medically treated at Khejurberia Block Primary Health Centre. The Medical Officer found multiple nail scratch marks on both sides of the chest of the opposite party. The case of the defacto complainant was corroborated by other witnesses whose statement was recorded under Section 161 Cr.P.C. The defacto complainant/opposite party No.2, however, was not agreeable to make a statement under Section 164 of the Cr.P.C during investigation.

5. The learned Advocate for the petitioners submits that falsity of the prosecution case is apparent when the defacto complainant refused to make any statement under Section 164 of the Cr.P.C.

6. I am not in a position to accept such submission made by Mr. Mazumdar, the learned Advocate for the petitioners. A charge-sheet cannot be quashed on the ground of defacto complainant's refusal to get her statement recorded under Section 164 of the Cr.P.C. The prosecution case may be proved by the documents and materials collected by the Investigating Officer in course of investigation.

7. There is no ground to quash the proceeding in Nandakumar Police Station Case No.364 of 2021 and G.R case No.2235 of 2021 under Sections 341/323/354/506/509/34 of the IPC.

8. The instant revisional application is accordingly dismissed on contest, however without costs.

9. A copy of this judgment be sent to the court below.