

Criminal RevisionPresent: **The Hon'ble Justice Ashim Kumar Roy**

Judgment on: 10.03.2010

C.R.R. No. 161 of 2010**Ratna Saha & Ors.****versus****The State of West Bengal****Point:**

QUASHING: Materials collected during investigation prima facie indicates the complicity of the accused in the commission of the offences - Pendency of a civil suit whether operate as a bar for continuation of criminal prosecution – Whether the proceeding can be quashed- Code of Criminal Procedure, S. 482.

Fact: The petitioners, who have been charge-sheeted under Sections 447/427/323/506/34 of the Indian Penal Code, have filed the instant application for quashing of the said charge-sheet mainly on the grounds that during investigation nothing transpired showing complicity of the accused in the commission of the alleged offences and the complainant has been made due to the personal grudge and the civil case is pending.

Held:

No charge-sheet can be quashed merely on the ground that the petitioners are innocent and falsely implicated in the case which are essentially the defence of the accused and can only be adjudicated during the trial. The pendency of a civil suit cannot operate as a bar for continuation of criminal

prosecution, when the materials collected during investigation prima facie indicates the complicity of the accused in the commission of the offences.

(Paragraph – 3)

For Petitioners : Mr. Navanil De

For State : Mr. Swapan Kumar Mullick

The Court:

Invoking inherent jurisdiction of this Court, the petitioners, who have been charge-sheeted under Sections 447/427/323/506/34 of the Indian Penal Code, have moved this Court for quashing of the said charge-sheet on the following grounds;

(a) During investigation nothing transpired showing complicity of the accused in the commission of the alleged offences.

(b) The complainant has been made due to the personal grudge.

(c) There is no chance of ultimate conviction.

(d) The civil case is pending.

(e) The petitioners are in no way connected with the alleged offence and absolutely innocent.

2. On the other hand, the Learned Counsel appearing for the State produced the Case Diary and submitted sufficient materials have been collected showing the petitioners' involvement in the commission of the alleged offences.

3. No charge-sheet can be quashed merely on the ground that the petitioners are innocent and falsely implicated in the case which are essentially the defence of the accused and can

only be adjudicated during the trial. The pendency of a civil suit cannot operate as a bar for continuation of criminal prosecution, when the materials collected during investigation prima facie indicates the complicity of the accused in the commission of the offences.

4. Now, having gone through the Case Diary, I find there are materials which justify submissions of charge-sheet for the offences as alleged. The evidentiary materials collected by police during investigation clearly makes out prima facie case constituting offences against the petitioners.

5. In view of above, I do not find any merit in this application and this criminal revision accordingly stands dismissed. Interim order, if any, stands vacated.

6. However, this order will not preclude the petitioners to raise the points taken in this criminal revision as their defence during the trial.

7. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)