

Criminal Revisional
PRESENT: The Hon'ble Justice Ashim Kumar Roy
Judgment On : 08-02-2010.
C.R.R. No. 9 of 2010
Bimal Naskar & Ors.
versus
The State Of West Bengal

Point:

Quashing: Second FIR on the self-same incident whether maintainable- Code of Criminal Procedure, 1973-S.482.

Fact: A Case under Sections 302/201/34 of the Indian Penal Code was registered against the petitioners and the case is now under investigation by the CID. Subsequent to that, another under Sections 364/302/201/384/386/120B/34 of the Indian Penal Code was registered against them on the basis of a complaint made by the self-same complainant and the investigation of the said case has been entrusted to the local police station. The petitioners filed the instant for quashing of the second FIR on the ground that over the self-same incident a police case has been registered and the same is under investigation by the CID, West Bengal, thus, the second FIR is not legally maintainable.

Held: The question of quashing of the First Information Report (FIR) does not at all arise. The justice demands that the truth to be unfolded and the real culprits be punished for their offences. (Paragraph – 5)

For Petitioners : Mr. Ayan Basu

For State : Mr. Swapan Kumar Mullick

The Court: 1. On the basis of a complaint lodged to the Officer-in-Charge of Haroa Police

Station by one Kalipado Naskar, following the death of one Dipankar Naskar and his friend Biswajit Mondal, the Haroa Police Station Case No. 123 of 2009, dated 20.7.2009, under Sections 302/201/34 of the Indian Penal Code was registered against Dinabandhu Mondal, Naresh Mandal, Subhas Mandal, Susanta Mandal, Kamal Mandal, Biswanath Gain, Suparna Mandal, Abdarali Molla, Gour Ghosal, Rabindranath Mandal, Pradip Mandal and the case is now under investigation by the CID, West Bengal. Subsequent to that, another FIR being Haroa Police Station Case No. 240 of 2009 under Sections 364/302/201/384/386/120B/34 of the Indian Penal Code was registered against Bimal Naskar, Mayna Mandal, Sakti Gain, Basudeb Mandal, Kesto Mandal and Mritunjoy Mandal and that too

on the basis of a complaint made to the Court by the self-same complainant Kalipado Naskar and the investigation of the said case has been entrusted to the local police station.

2. The petitioners now approached this Court for quashing of the second FIR being Haroa Police Station Case No. 240 of 2009 on the ground that over the self-same incident a police case has been registered and the same is under investigation by the CID, West Bengal, thus, the second FIR is not legally maintainable.

3. Heard Mr. Ayan Basu, the Learned Counsel appearing on behalf of the petitioners as well as Mr. Swapan Kumar Mullick, the Learned Counsel appearing on behalf of the State. Perused the materials on record. The Case Diaries of the cases have also been produced before me.

4. It appears after lodging of the first FIR, the complainant Kalipado Naskar moved the Learned Chief Judicial Magistrate, Barasat, invoking Section 156 (3) of the Code of Criminal Procedure alleging that the persons, who have been arraigned as accused in the second FIR after discovery of the dead body of Dipankar Naskar and Biswajit Mondal, under threat and coercion compelled him to sign on a complaint written by some unknown persons. The content of the said complaint was never read over to him. It was further alleged that subsequently the complainant Kalipado Naskar came to learn that in the first complaint some innocent persons have been falsely implicated so as to screen the real culprits. It was the further case of the complainant thereafter he repeatedly intimated the local police station about the actual incident, but the police refused to take note of the same. It is true the aforesaid two cases are arising out of the self-same incident, but the accused are different and there is sufficient explanation on the part of the complainant as to why the second complaint was made against some other accused persons.

5. In such circumstances, the question of quashing of the First Information Report (FIR) does not at all arise. The justice demands that the truth to be unfolded and the real culprits be punished for their offences. Since the first case is under the investigation by the CID, West Bengal, I direct the investigation of the second case also be handed over to the CID and the same Investigating Officer shall investigate both the cases and submit his report in final form simultaneously.

This criminal revision, thus, stands disposed of.

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.*)