

Criminal Revision
Present: **The Hon'ble Justice Ashim Kumar Roy**
Judgment on: 03.03.2010
C.R.R. No. 4508 of 2009
With
CRAN No. 156 of 2010
Farida Bibi Sheikh
versus
State of West Bengal

Point:

QUASHING: On the basis of the materials collected by the police during preliminary investigation it cannot be said that no case has been made against the petitioner – Whether the proceeding can be quashed- Code of Criminal Procedure, 1973 S. 482.

Fact: The petitioner by filing the instant application prayed for quashing of a First Information Report relating to offences punishable under Sections 409/406/468/471/34 of the Indian Penal Code mainly on the ground that the allegations are motivated and have been falsely concocted out of political rivalry.

Held:

Having regards to the grounds on the basis of which the petitioner urged for quashing of the First Information Report, the same are essentially her defence and involved disputed question of facts, which cannot be gone into at this stage. Which version of case is true, whether the version of the prosecution or that of the defence are the matters can only be adjudicated during the trial on evidence and not at the stage when the accused is approaching for quashing of the case. At this stage all that have to be seen by the High Court as to whether on the allegations made in the FIR and the evidentiary materials collected during investigation any offence has been made out or not against the person seeking quashing of the FIR. On the basis of the materials collected by the

police during preliminary investigation it cannot be said that no case has been made against the petitioner.

Paragraphs 5 & 6

For Petitioner : Mr. B.N. Bajpayee
Mr. Somnath Banerjee

For State : Mr. Debabrata Roy

For Defacto-Complainant: Mr. Tirthankar Ghosh
Mr. Sayan De

The Court: Invoking inherent jurisdiction, the petitioner has approached this Court for quashing of a First Information Report relating to offences punishable under Sections 409/406/468/471/34 of the Indian Penal Code against her.

2. The Learned Counsel in support of this application inter alia contended as follows;

(a) The allegations are motivated and have been falsely concocted out of political rivalry.

(b) Without giving any opportunity to the petitioner to explain the allegations made against her, the impugned FIR has been lodged.

(c) The petitioner being the Pradhan by virtue of her office has only to supervise the overall function of the Gram Panchayat and except signing the cheque jointly with Panchayat Assistant, who is a Government Officer, she had no scope to handle the funds of the Panchayat personally.

(d) No details have been furnished as to how such a huge amount of money has been defalcated.

(e) The entire amount of money on account of Indira Abasan Yojona has been duly distributed amongst the villagers, who are below the poverty line, according to the list prepared by B.D.O. and none made any complaint about non-receipt of such money.

(f) There is no allegation against the Prodhan.

(g) 335 persons to whom the aforesaid amount of Rs. 6.70 lakhs were distributed made no complaint that they have not received their dues.

(h) Two of such persons, viz., Azizul Sheikh and Hazera Bewa Sheikh filed two affidavits acknowledging receipt of grants under Indiarabasan Yojana.

3. On the other hand, the learned advocate appearing on behalf of the State produced the Case Diary and submitted that sufficient materials have been collected during investigation showing her complicity in the commission of the alleged offences. He further submitted that the petitioner's prayer for anticipatory bail has been rejected by a Division Bench of this High Court after this Court found sufficient materials against her.

4. Heard the Learned Counsels appearing on behalf of the parties. Perused the Case Diary.

5. Now, having regards to the grounds on the basis of which the petitioner urged for quashing of the First Information Report, I find the same are essentially her defence and involved disputed question of facts, which cannot be gone into at this stage. Which version of case is true, whether the version of the prosecution or that of the defence are the matters can only be adjudicated during the trial on evidence and not at the stage when the accused is approaching for quashing of the case. At this stage all that have to be seen by the High Court as to whether on the allegations made in the FIR and the evidentiary materials collected during investigation any offence has been made out or not against the person seeking quashing of the FIR. It is the case of the prosecution

that the present petitioner along with others have defalcated about Rs. 1,16,000/- by showing payment against fictitious and dead persons. It further appears from the materials collected during preliminary investigation that under IDNOAPS Scheme payments were made to the following persons, viz., Kader Box Moni, Samsara Bewa, Seksad Biswas, Ajifa Bewa, Sakatan Bewa on the strength of B.P.L. Cards which were actually belonging to other persons, viz., Arjun Halder, Bijay Halder, Bonamali Biswas, Bhagirath Halder, Ganesh Halder and in those cases identification and authentication was done by the petitioner Farida Bibi Sheikh, the Prodhan of the Gram Panchyat. During investigation it was further found that a cheque for Rs. 36,600/- was issued in favour of Manirul Islam, the husband of the petitioner Farida Bibi Sheikh and the amount was refunded nearly a month back but there was no corresponding vouchers, bills in support of such transactions. I further found the present petitioner apprehending arrest in connection with the case in question applied for anticipatory bail and a Division Bench of our High Court rejected her such prayer upon finding sufficient incriminating materials indicating prima facie involvement of the present petitioner in the commission of the alleged offences.

6. Thus, on the basis of the materials collected by the police during preliminary investigation it cannot be said that no case has been made against the petitioner.

7. This criminal revision has no merit and accordingly stands dismissed. Interim order, if any, stands vacated.

8. In view of dismissal of the main criminal revisional application, the application for extension of interim order being CRAN No. 156 of 2010 become infructuous and accordingly stands disposed of.

9. 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.)