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## The Drama behind a Manipulated FIR in the context of *Badsha v State of West Bengal*

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*Legal troubles are seldom seen with dismay and up to some extent disliked by the rational logic of the general society. Sometimes a misfortune can strike and we have to fight our way back to normalcy. Herein we find the troubled petitioner-accused reinstating his faith in justice to make a precedent that the Indian courts cannot be misleading, The process of justice may take some time but it cannot be taken away from its rightful heir. The case<sup>1</sup> talks about the mala fide attempt on an innocent just to satisfy someone's material pursuit. The case begins with the suicide of the victim which provokes her mother to file a criminal case against the petitioner-accused and thereby the proceedings begin only to be observed that the faulty F.I.R.<sup>2</sup>, had many loopholes and ultimately the High Court was approached seeking justice in this matter. In this case, the eligibility of a revision application under Section 482<sup>3</sup> was to set an example of how the loopholes in a first information report can bring the truth forward.*

**Keywords:** *legal trouble, petitioner, accused, mislead, court.*

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<sup>1</sup> Saibal Banerjee Alias *Badsha v The State of West Bengal and Anr* (1994) 1 CALLT 80 HC

<sup>2</sup> Code of Criminal Procedure 1973, s 154

<sup>3</sup> Code of Criminal Procedure 1973, s 482

## INTRODUCTION

*“Justice demands integrity. It’s to have a moral universe – not only to know what is right or wrong but to put things in perspective, and weigh things. Justice is different from violence and retribution; it requires complex accounting.”<sup>4</sup>*

— Bell Hooks

We all know that wherever there is a right there is a remedy. The question of violation of right(s) occurs when we know about it and that it is violated in some manner. Subsequently arises, the statement of manipulation: can we manipulate the given rights or the public machinery to our benefit? Manipulation of something is not impossible but it is a difficult and malicious task, Rights can never be manipulated but public machinery, to some extent, can be manipulated to create chaos for an innocent one and the results can be observed through extra-judicial killings, custodial deaths, false first information reports, fake arrest, etc. but these are some of the things which are under the ambit of the law enforcement agencies. However, the independence of the judiciary works as a check to these things and this is a valid reason for the citizens of India still have their faith in the judicial system. An instance is the aforementioned case which uses Section 482<sup>5</sup> of the CrPC as the pillar to seek justice for an innocent victim who was entangled in a web of deceit arising out of the mala fide intentions of the complainant. This case reaffirms the fact that bluffing charges against a person cannot make a conviction possible.

Though the petitioner-accused is relieved from his charges by the court, the manipulative FIR and the nature of the proceedings by the police strike a chord in the author's mind to find the crux of the entire incident. What should have provoked the complainant to pursue a path of lies and fake chaos?

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<sup>4</sup> 'Quotable Quote' (Good Reads) <<https://www.goodreads.com/quotes/118812-justice-demands-integrity-it-s-to-have-a-moral-universe>> accessed 03 September 2023

<sup>5</sup> *Ibid*

## CHARACTERS OF THE CASE

There are many names attached to the case. Let us note the important ones below for the sake of clarity.<sup>6</sup>

- Mr. Saibal Banerjee alias Badsha (Petitioner-accused);
- Ms. Atreyee Bhattacharjee (victim who committed suicide);
- Ms. Archana Bhattacharjee (Complainant and mother of the dead victim);
- Mr. Abhik Bhattacharya alias Somi (Son of the complainant and brother of the victim);
- Mr. Amal Chandra Banerjee (Father of the petitioner-accused and his brothers),
- Mr. Debasis Banerjee (Eldest brother of the petitioner-accused);
- Mr. Siddhartha Banerjee Alias City (Elder brother of the petitioner-accused and younger to Mr. Debasis).

## FACTS OF THE CASE

The facts of the case are noted in points below for clarity:

The entire story begins on 03-5-1992 when the Complainant along with her family came to a flat in Kolkata. On 05-5-1992 the victim who happens to be the daughter of the complainant didn't move out of the bathroom for some time since five in the morning. Seeing no response, her mother called her son to inquire and subsequently, upon no response for minutes he break-open the door only to find her in a non-responsive state, hanging from the sewer pipe with a saree as an aid. She was rushed to the N.R.S. Hospital only to be declared dead by the hospital. Without mention, the victim committed suicide.

This aggrieved her mother the most that moved to the Beliaghata Police Station and filed an F.I.R., under Section 306 of the Indian Penal Code, 1860, against the petitioner-accused in front of the Officer-in-Charge of the respective Station. Thus, implying that the complainant is convinced of the abetment of the suicide of her daughter by the petitioner-accused.

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<sup>6</sup> *Saibal Banerjee Alias Badsha v The State of West Bengal and Anr* (1994) 1 CALLT 80 HC

This F.I.R. also contains the statement that led to its quashing. The complainant adds that she brought a marriage proposal of her daughter with the elder brother of the petitioner accused in front of the father and eldest brother such that they initially agreed to it but later rejected her proposal.

To her dismay, she found an intimate relationship between the petitioner-accused and her daughter and this forced her to invite the petitioner-accused for dinner at her home which he assured of but did not turn up on the required day. Again, this as per the complainant triggered a sense of regret, and the victim along with her family realized his cheating which led to the victim committing suicide. Post F.I.R., the matter was brought before the appropriate Sessions Court and the investigations continued. However, the police were engaged in pending the relevant investigation thereby agonizing the petitioner-accused and allowing him to approach the court for a revision petition.

The court observes the fact that there is no evidence to prove any intimate relationship between the petitioner-accused and the victim. Moreover, the court was satisfied with the fact that the lethargic or precisely, nothing being done in the investigation is a clear indication that the complainant filed the F.I.R., with a malicious intent and wanted to gratify her mala fide intentions. Therefore, the petitioner-accused was absolved of his charges and bail bond if any thereby allowing the revision petition under Section 482 of the Code of Criminal Procedure, 1973.

## **OBSERVATIONS**

**The Abetment Background:**<sup>7</sup> The case is built around Section 306<sup>8</sup> of the IPC. This section penalizes abetment by any person in the suicide of another for a maximum period of ten years with or without a fine. Clear, but from the facts of the case there is no such indication as to how the victim could have been influenced or instigated to commit suicide. Let us analyze this through the following perspectives:

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<sup>7</sup> Indian Penal Code 1860, s 109

<sup>8</sup> Indian Penal Code 1860, s 306

If the petitioner-accused would have developed an intimacy with her, then why would have she taken such a drastic step? After being cheated she could have approached him directly or through any other legal discourse available. Rather she chose to commit suicide just because he did not turn up on the invited day is whimsical.

If the petitioner-accused had instigated her, would not he have been making trouble for both his family and the police during the investigation? Most likely he would have either fled with her to some other place or adopted any other available option. Again, instigation or influence has to be through some means which is seen to be impossible for this case as the invitation was made on the 04<sup>th</sup> of May 1992 and the incident occurred on the 05<sup>th</sup> of May 1992 barely giving time for a heart-broken lady to be instigated or abetted to suicide.<sup>9</sup>

Therefore, the entire setup is a hoax and just because someone did not show up to a dinner invitation after being intimately attached to the victim and taking up the harshest resort to end her life does not match with the rationale of a person with general intelligence. Therefore, the entire F.I.R. is misleading and conspicuous just to create trouble for the petitioner-accused and his family who had turned down the complainant's proposal to marry her daughter to the elder brother of the petitioner-accused. This means the allegations were filed with the intention of revenge and fraud.

**Theoretical Analysis:** The setup of the storyline can be assumed to be prepared post suicide; which means, this entire thing was planned after the death of the victim, and the missing links of the story coupled with no movement in the investigation by the concerned department indicates the FIR<sup>10</sup>, to be a by-product of fraudulent motive undertaken by the Complainant. The following issues arise:

1. If the petitioner-accused had erstwhile made a fake promise about marriage then the victim would have refused to marry his elder brother. Why did not this occur?

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<sup>9</sup> *Saibal Banerjee Alias Badsha v The State of West Bengal and Anr* (1994) 1 CALLT 80 HC

<sup>10</sup> *Ibid*

2. Second, after no response in the bathroom, the Complainant within a 'few minutes' conceived the thought of a mishap. How?
3. Why did the petitioner-accused, who has not been proven of a relationship turn up to a simple dinner proposal, was he informed?
4. Was the FIR a consequence of revenge sought by the Complainant against the petitioner-accused and/or his family?

In the above-mentioned issues, one thing is noticeable the nature and mindset of the aggrieved mother who in the F.I.R., has held the petitioner-accused responsible just because she found her daughter to have committed suicide. A mother ought to be aggrieved by such an incident. However, any such incident cannot provoke a false F.I.R., the statements manipulative, the storyline full of flaws, and above all, the allegations leveled under Section 306<sup>11</sup> of the Indian Penal Code, 1860. The one who did not turn up to a dinner invitation nor did he claim any relationship, how can he abet the victim? The victim has adopted this drastic step based on her conscience and there is not even a trace of influence on her mind. The complainant had made previous requests for a marriage between her daughter and the elder brother of the petitioner-accused only to be initially positive and turned down later by the father of the petitioner-accused. This does not seem fit for abetment rather it is more adaptive to the fact that this instigated the complainant to file the case and initiate false proceedings against the petitioner-accused. Therefore, the court upon revision petition by the petitioner-accused found the lacunas in the FIR, and the lethargic activity concerning the case by the concerned police station revealed the fact this case is structured around troubling the petitioner-accused and gratifying the revenge-seeking nature of the Complainant. Thus, the court acquitted the petitioner-accused of the charges and justice triumphed again against all odds.

Observing the above-mentioned issues specifically, we see that the claim of an intimate relationship cannot stand because there is no trace of such a relationship between the victim and the petitioner accused. Again, the dinner invitation seems to be a hoax because the entire event happened on the 04<sup>th</sup> of May 1992 and the victim was found hanging on the 05<sup>th</sup> of May 1992 in

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<sup>11</sup> *Ibid*

the wee hours which means the petitioner-accused had no chance to provoke the victim to suicide. Therefore, the petitioner-accused is legit in being absolved of his charges.

## INFERENCE

This case has two components first the false F.I.R., and second, the action of the police concerning this particular case. References are made to the *Madhavrao Jiwajirao Scindia v Sambhajirao Chandrojirao* case<sup>12</sup> where false accusations are bound to be quashed subject to the reasoning that uncontroverted allegations prima facie establish an offence. Since the entire proceeding in the initial stages is a hoax and the nature is mala fide, such a proceeding is rightly quashed by the court relieving the petitioner accused of his charges. Again, we find the case of *State of U P Through CBI v RK Srivastava and Another*<sup>13</sup> being about the allegations made in the FIR, cannot constitute an offense that such an allegation is only held to its face value as mentioned in the judgment. Thus, with a baseless allegation and false proceeding being initiated by the Complainant, the case cannot have a strong foundation and hence was liable for rejection ab initio. Therefore, every citizen has a right to fight against baseless allegations and has an option to approach the court for justice.

## CONCLUSION

Leveling false allegations against an innocent can never be allowed. This is prevented in false criminal proceedings through Sections 397<sup>14</sup> and Section 482<sup>15</sup>. The petitioner-accused approached the court through the latter and earned his due from the court. This implies that justice can neither be suppressed nor be denied to its rightful owner. The power of such a section is witnessed in this case. Moreover, such a case has its roots in the pro-revenge-seeking nature of the Complainant, and therefore, such an FIR, was made to create trouble for the petitioner-accused and his family. Also, the case shows misleading and misappropriate information about the happenings which again is a clear indication of the false allegations being leveled against

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<sup>12</sup> *Madhavrao Jiwajirao Scindia v Sambhajirao Chandrojirao* (1988) SCR 2 930

<sup>13</sup> *State of UP Through C.B.I. v R.K. Srivastava and Anr* (1989) SCR (3) 834

<sup>14</sup> Code of Criminal Procedure 1973, s 397

<sup>15</sup> Code of Criminal Procedure 1973, s 482

the petitioner-accused who was right in approaching the High Court to seek justice. Therefore, we can state from such an incident that truth always triumphs.