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HIGH COURT OF TRIPURA
AGARTALA

Crl.Petn. No.27/2021

For Petitioner(s) : Mr. Subrata Sarkar, Sr. Advocate,
Mr. K.D. Singha, Advocate,
Ms. R. Purkayastha, Advocate.

For Respondent(s) : Mr. S.S. Dey, Advocate General,
Mr. Ratan Datta, P.P.,
Ms. A. Chakraborty, Advocate.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

Order

25/06/2021

The petitioner is an active member of a political party. Against him two FIRs have been lodged before two different police stations by respondents No.2 and 3 respectively. Both these FIRs relate to the petitioner's two facebook posts which the informants claim they had occasion to read on 30.05.2021. According to the complainants these posts incited people to commit rioting and had the tendency to create disharmony amongst the members of different political parties. These FIRs are registered by the concerned police stations for commission of offences punishable under Sections 153, 153A, 109, 506 read with Section 120B of Indian Penal Code. The petitioner seeks quashing of both the complaints on the grounds that two FIRs for the same incident leading to two separate

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investigations is not permissible and in any case, the allegations contained in the FIRs even if taken on face value do not constitute any offence.

The learned Advocate General appearing on behalf of the State on advance copy strongly opposed this petition. He submitted that these posts had the propensity to cause violence since it urged the people of the locality to take law in their own hands. He highlighted that such posts have been put by an active member of a political party whose urgings to the people would have greater appeal. He also had dispute about the precise translation of the posts in question and the FIRs which the petitioner has produced in this petition. He submitted that quashing of FIR is an exception. In the present case since the complainant has alleged commission of cognizable offences it was the duty of the police to register the same as an FIR and commence investigation. He submitted that the posts of the petitioner should not be seen in isolation since several other members of the same political party have put up similar posts which are far more aggressive in their contents. The chain of events must be viewed in entirety.

I would at this stage proceed on following *prima facie* considerations:

(i) The FIR has to be read as a whole to gather its true purport;

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(ii) Only if all the allegations made in the FIRs are taken on the face value and accepted to be true, it can be stated that no offence is made out, the Court would quash the complaint in exercise of powers under Section 482 of Cr.P.C.;

(iii) The petitioner is answerable for his posts and not of anyone else.

Bearing in mind these broad principles, the issues require further consideration. The two posts which the informants have complained about and which are attributed to the petitioner as translated read as under:

“Today at Badharghat area those who carried out the attack at house to house, if police doesn’t take any action, then the culprits must be taught a lesson collectively, not acceptable any more.”

“Everyone be ready, build resistance wherever there is an attack.”

Prima facie it is extremely doubtful whether either of these two posts bring the allegations within the fold of Section 153A of Indian Penal Code which provides for punishment for promoting enmity between different groups on the grounds of religion, race, place of birth, residence, language etc., and doing acts prejudicial to maintenance of harmony. Section 153A is the main penal provision applied in the FIR. Ingredients of rest of the penal provisions cited also *prima facie* do not seem to be

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satisfied. The question of maintaining multiple FIRs for the same alleged incident would also require further consideration.

Hence, notice, returnable on **23.07.2021**.

On the returnable date, it would be open for the State to provide its version of the true translation of the posts in question and the FIRs if according to the State the translations produced by the petitioner are not accurate.

Learned Public Prosecutor Mr. Ratan Datta waived notice on behalf of respondent No.1.

By way of ad-interim relief, further investigation into the said FIRs is stayed.

(AKIL KURESHI), CJ

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