

**DISTRICT -DHAKA*****IN THE SUPREME COURT OF BANGLADESH******HIGH COURT DIVISION*****(CRIMINAL MISCELLANEOUS JURISDICTION)****CRIMINAL MISCELLANEOUS CASE NO.****OF 2023****IN THE MATTER OF:**An application under Section 561A of the  
Code of Criminal Procedure

-And-

**IN THE MATTER OF:**

Mirza Fakhrul Islam Alamgir

.....Accused-Petitioner.

-VERSUS-

The State

.....Opposite Party.

Mr. Zainul Abedin with

Mr. Md. Sagir Hossain, Advocate

.....For the Accused-Petitioner.

Mr. S.M. Munir, Additional Attorney General  
with

Mr. Tushar Kanti Roy, DAG

Mr. Md. Azizul Hoque, A.A.G

Mr. A.T.M. Aminur Rahman (Milon), A.A.G.

Ms. Lily Rani Saha, A.A.G.

.....For the State.

**Present:****Mr. Justice Md. Salim****And****Mr. Justice Md. Riaz Uddin Khan****The 17<sup>th</sup> October, 2023.**

This is an application under section 561A of the Code of Criminal Procedure filed by the accused-petitioner for quashing the Judgment and order dated 08.10.2023 passed by the Additional Metropolitan Sessions Judge, 1<sup>st</sup>

Court, Dhaka rejecting the Criminal Revision No.1596 of 2023 and thereby affirming the order of framing of the charge dated 03.09.2023 passed by the Additional Chief Metropolitan Magistrate, Court No.4, Dhaka in G.R. No.596 of 2012 arising out of Paltan Model Police Station Case No.14 dated 09.12.2012 under Section 143 / 148 / 149 / 332/ 427 of the Penal Code, now pending before the Additional Chief Metropolitan Magistrate, Court No.4, Dhaka.

Facts in a nutshell for disposal of the application are that the informant is a driver of a government Volvo container carrier. On 09.12.2012 at about 07.00 hours the informant was carrying garbage by the garbage carrier vehicle from Minto Road to Matuail. When he reached Kakrail, accused Mirza Farku Islam Alamgir, Ruhul Kabir Rizvi along with 200/250 unknown accused with unlawful assembly attacked the informant, threw cocktails, and beat the informant and helper of the vehicle indiscriminately. They also broke the garbage carrier vehicle's front glass and looking glass.

The case was investigated by the police. After investigation charge sheet was submitted against the accused petitioner and 8(eight) others under Section 143 / 147 / 148 / 149 / 332/ 333/ 307/ 427 of the Penal Code.

Subsequently, after rejecting the application filed by the accused petitioner under Section 241A of the Code of Criminal Procedure, 1898 charge was framed by the Additional Chief Metropolitan Magistrate, Court No.4, Dhaka against the accused petitioner and others under section 143/148/149/332/427 of the penal Code.

Being aggrieved by and dissatisfied with the above order, the petitioner filed Criminal Revision No.1596 of 2023 before the Metropolitan Sessions Judge, Dhaka. Subsequently, the learned Additional Metropolitan Sessions Judge, 1<sup>st</sup> Court, Dhaka by the judgment and order dated 08.10.2023 rejected the Criminal Revision and affirmed the order passed by the Additional Chief Metropolitan Magistrate. Court No.4, Dhaka

Mr. Zainul Abedin, the learned senior Advocate appearing on behalf of the petitioner argues before us that the charge was framed against the accused petitioner without following the requirements of Section 221(4) of the Code of Criminal Procedure, 1898. He then refers to the case reported in 34 DLR (HCD 94, 28 DLR (HCD) 236, 16 BLD (HCD) 312, 48 DLR (HCD) 427, 55 DLR (HCD) 527 and 4 MLR (HCD 81 submits that prolongation of the proceedings with the purported prosecution materials in one hand do not corroborate to the legal requirements of section 221 / 222 / 223 of the Code of Criminal procedure

so the proceedings against the accused petitioner is nothing but an abuse of the process of the Court. He then submits that the accused petitioner has been implicated in the instant case only on the basis of political rivalry, fabricated and planted allegations at the instance of some grudge.

Mr. S.M. Munir, the learned Additional Attorney General appearing on behalf of the state opposes the contention made by the learned Counsel for the accused petitioner and submits that since the First Information Report and Charge sheet disclose prima facie case against the accused petitioner the learned Magistrate committed no illegality in framing charge against accused petitioner and the learned sessions Judge justifiedly passed the impugned Judgment and order.

We have given our anxious consideration to the above submissions of the learned advocate for the petitioner and the learned Additional Attorney General for the state.

We have perused the impugned Judgment and order passed by the learned Additional Metropolitan Sessions Judge as well as the Charge framing order passed by the learned Metropolitan Magistrate. From a plain reading of the First Information Report and the Police Report, we are of the view that there are prima facie allegations against the accused petitioner in the First Information Report. After the

investigation, police submitted a Police Report against the accused petitioner along with others. We have also found that the charge was framed by the learned Metropolitan Magistrate in total compliance with the provision so enumerated in section 221 / 222 / 223 of the Code of Criminal Procedure., having no scope to interfere with the order. The observation and decision taken by the learned Additional Metropolitan Sessions Judge are legal and cogent which need not be interfered with by this court.

We have also anxiously considered the cases reported in 34 DLR (HCD 94, 28 DLR (HCD) 236, 16 BLD (HCD) 312, 48 DLR (HCD) 427, 55 DLR (HCD) 527 and 4 MLR (HCD 81 referred by the learned counsel for the accused petitioner. It manifests that in all the above cases after conviction the convicted accused petitioner against the Judgment and order of conviction and sentence moved before the High Court Division and the High Court Division after assessing the evidence on the record held that the charges are vague indefinite, lack in material prosecution, and not tenable under the law.

In the above facts and circumstances, we do not find support from the above-cited cases to interfere with the impugned Judgment and order passed by the courts below. Moreover, all other grounds taken in the petition by the petitioner are not the correct exposition of the law.

In view of the discussions made above and the reasons stated hereinbefore we hold that there is no reason for interference by this court at this stage. We find that there is a prima facie case to be tried by the trial court below and thus the application has no legs to stand being devoid of substance, and is destined to fail.

Resultantly, the application under Section 561A of the Code of Criminal Procedure is rejected summarily.

Communicate the order at once.