

28.01.2021.

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C.R.R. 96 of 2021

Pulak Kumar Sen
Vs.
The State of West Bengal & Anr.

(Via Video Conference)

Mr. Sadhan Kumar Halder
... For the petitioner.

Mr. Saibal Bapuli, APP,
Mr. Arijit Ganguly
... For the State.

Affidavit-of-service furnished by the petitioner be kept on record.

The Court is approached under Section 482 of the Criminal Procedure Code for quashing of a proceeding now pending before a Municipal Magistrate, Kolkata in connection with the case No. 184 of 2019 alleging commission of offence under Section 401 (A) of KMC Act, 1980.

Mr. Sadhan Kumar Halder, learned advocate representing the petitioner submits that petitioner is the recorded and original owner of the subject land, over which the opposite party no. 3, in whose favour a Power of Attorney was executed by petitioner, there has been construction behind the knowledge of the petitioner, without taking required sanction plan. It is contended that since the petitioner is the actual owner of the land, and since the construction has been made on the land, belonging to the petitioner, at the instance of the Power of Attorney holder (opposite party no. 3), there are strong

reasons to make interference by this Court so as to stall the pending proceeding.

Mr. Ganguly, learned advocate representing the State advertng to the documents already furnished by the petitioner and enclosed with the instant revisional application submits that in this case charge sheet has already been submitted under 401 (A) of KMC Act, 1980 collecting prima facie materials. It is further contended by Mr. Ganguly that with the collection of the prima facie materials, the Court should not interfere with the pending proceeding after charge sheet is submitted in this case.

Upon perusal of the photocopy of the order of the learned court below, it appears that the learned court below already fixed date for supply of copies of police report and other documents to the petitioner, but due to absence of the petitioner, the same could not be done. Mr. Sadhan Kumar Halder representing the petitioner, at this stage, contends that neither the charge sheet, nor the materials already collected during investigation in the case has or have been supplied to the petitioner. It is, thus, clear that even after the date being fixed by the learned trial court for the supplies of copies, the same could not be done due to non-appearance and non-cooperation of the petitioner.

When the charge sheet has been submitted making out a prima facie case with the collection of the materials, the Court is of the view that it is not the stage to embark upon an enquiry so as to ascertain the prima facie case, if made out or not.

However, when the date has already been fixed for copies, this Court is of the view that this revisional application may be disposed of so as to sub-serve the purposes of justice, as proposed to be obtained giving a direction mentioned hereunder.

Learned court below is directed to, supply the copies to the petitioner on the date fixed or if for any reasons whatsoever the same could not be utilized, the same may be fixed after a fortnight peremptorily. The petitioner is further given liberty to agitate the points now raises before the learned court below at the appropriate stage of trial, and if any such points are raised, the same shall be decided by the learned court below in accordance with the provisions of law, providing sufficient opportunity of hearing to either of the parties to this case.

With this revisional application stands disposed of.

However, the Court makes it clear that this order is recorded without prejudice to the rights of the petitioner, if any, that may be made before the competent court, and it is also without touching upon the merits of the case, if there be any.

(Subhasis Dasgupta, J.)