

CRR 424 of 2021

**Md. Rafique & Anr.
Vs.
State of W. B. & Anr.**

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973.

**Mrs. Manju Agarwal
Mr. Bajrang Manot
..... For the Petitioners
Mr. Goutam Dinda
Mr. A. S. Chatterjee
....For the K. M. C.
Mr. S. Bapuli
Mr. B. Bhattacharyya
.....For the State**

This is for quashing of a proceeding in connection with a case being C-80 of 2018 under Section 401(A) of Kolkata Municipal Corporation Act, 1980 now pending before the learned Municipal Magistrate, 1st Court, Calcutta.

Mrs. Agarwal, learned advocate representing the petitioners submits that petitioners have been falsely implicated in this case as the petitioners have not undertaken any construction with reference to the 4th to 6th floor causing disobedience to the stop work notice, if any, issued by the K. M. C. for the purpose. Previously, according to the petitioners, there has been three cases instituted against the petitioners by the K. M. C. alleging unauthorized construction, and out of the three cases, two cases have already been dropped. The petitioners were directed to deposit fine in one case only. This being the fourth case, according to the petitioners, there is nothing to

justify continuance of the proceeding, as there has already been demolition of the alleged unauthorized construction. It is also contended by the learned advocate for the petitioners that though the trial has commenced in this case, but this is a case where the court should quash the proceeding without entering into the trial merely upon visualizing a significant fact that there has already been demolition given effect to.

Learned advocate representing the State proposes that when there has been commencement of the trial, the point now raises, may well be taken up during trial at its appropriate stage.

Mr. Dinda, learned advocate representing the K. M. C. submits that the petitioner has chequered antecedent as regards the unauthorized construction undertaken, and the conduct of the petitioner, as regards the unauthorized construction is repetitive in nature, which needs to be taken care of.

This is a case where there is alleged assertion of undertaking unauthorised construction and repudiation of facts alleged, which can only be resolved upon collection of evidence during trial.

Having considered the rival submissions of the parties, the court is of the view that the instant revisional application may be disposed of, so as to subserve the purpose of justice, as proposed to be obtained, giving a direction mentioned hereinbelow.

Learned court below is directed to make effective utilization of the dates, to be scheduled for the purpose, aiming

at ensuring expeditious disposal of the pending case, without granting unnecessary adjournment, unless it is extreme unavoidable. While making such exercise, learned court below is free to resort to Section 309 Cr. P. C., taking all other incidental steps, as may be necessary, in reaching to logical conclusion of this case within a reasonable period of time, preferably within a period of one year.

It is thus clarified that the case is disposed of without touching upon the merits of this case, and also without prejudice to the rights and contentions of the petitioners in the matter.

With these observations and directions, the revisional application stands disposed of.

(Subhasis Dasgupta, J.)