

06.09.2021

Item No.4
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 682 of 2012
(Via Video Conference)

**Indus Towers Limited
versus
State of West Bengal & Anr.**

In Re: An Application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

Ms. Sutapa Sanyal,
Mr. Anand Keshri,
Mr. Arindam Chandra,
Mr. Atish Ghosh,
Ms. Eliza Seth ... For the Petitioner.

Mr. Arijit Ganguly,
Mr. Sanjib Kumar Dan ... For the State.

Mr. Ayan Bhattacharjee ... For the Opposite Party No.2.

The petitioner before this Court is the accused no.2 which is a Company and challenges the proceedings being Complaint Case No. C-470 of 2011 pending before the learned Judicial Magistrate, 3rd Court, Barrackpore as also the order dated 24.11.2011.

The primary allegation in the petition of complaint relates to a leave and licence agreement being entered into between the parties and non-payment of licence fees to the complainant.

Having regard to the nature of allegations made in the petition of complaint, I am of the view that a civil dispute has been given the cloak of a criminal proceeding and surprisingly, learned Magistrate took cognizance of the offence and subsequently issued process against two of the

companies and persons responsible for the day to day conduct of the business of the said company.

The complainant in this case was at liberty to invoke the jurisdiction of the civil court, if any licence fees were due and under no circumstances, the provisions of Section 420 of the Indian Penal Code could have been attracted for exercising the jurisdiction of the criminal court. That being the scenario, further continuance of the proceedings relating to Complaint Case No. C-470 of 2011 including the order taking cognizance and issuance of process is an abuse of process of the court and the same cannot be allowed to continue. Thus, Complaint Case No. C-470 of 2011 is hereby quashed.

Accordingly, CRR 682 of 2012 is allowed.

Interim order, if any, is made absolute.

All pending connected applications, if any, are consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)