

16-06-2021
Item no.16
Subrata

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR No.1365 of 2005
Smt. China Karmakar & Anr.
-vs-
State of West Bengal & Anr.

None

...for the petitioners

Mr. Bidyut Kumar Roy
Ms. Sujata Das

...for the State

None appears for the petitioners or for the opposite party. This court took assistance of Mr Bidyut Kumar Roy along with Ms Sujata Das, learned advocates who usually appear for the State, to come to a conclusion regarding this matter.

I have perused the petition of complaint which is the subject-matter challenged before this court. The case originated from a dispute which has arisen out of a loan of Rs.30,000 taken by one Gautam Karmakar for the development of his business who subsequently died.

It has been alleged that a further sum of Rs.30,000 was taken by the wife of Gautam from the complainant by way of loan on December 11, 2002 promising to be fully paid by July 2003, but that the same was not refunded.

The allegations are as follows. On or about December 10, 2004 at about 9.15 a.m. when the complainant (the second opposite party herein) and his wife went to the residence of the accused persons and demanded loan money, the accused persons abused them with filthy language and pushed them out of their residence. Consequently, the complainant became sick and was treated at NRS Medical College & Hospital, Kolkata.

The learned Magistrate by an order dated March 5, 2005, after examining the complainant and the witnesses, issued process against the accused-petitioners. The incident complained of was some time in the month of December of the year 2004 and more than sixteen years have passed in the meantime. Further, the allegations are restricted to pushing out from the residence of the accused persons. The spirit of the complaint reflects that there was a bona fide claim of a sum of Rs.60,000 from the present accused persons by way of loan which was tendered to Gautam Karmakar and his wife who happened to be the relations of the complainant parties.

Having regard to the nature of the allegations and the period of time which has lapsed in the meantime and the fact that none is interested in pursuing the case before this court and also having heard learned advocate for the State, I am of the view that no useful purpose would be sub-served by directing the learned Judicial Magistrate, 2nd Court, Sealdah to continue with the proceedings pertaining to Complainant Case no.756 of 2004.

Accordingly, Complaint Case No.756 of 2004 is hereby quashed and is set aside. CRR No.1365 of 2005 is allowed to this extent.

This order is a finding restricted to the facts of the present case and will not have a binding effect in other cases.

Department is directed to communicate this order to the learned court below.

All parties are to act on the server copy duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]

