

24.02.2022

Item No.7
Ct.No.34
dc.

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

C.R.R. 188 of 2017
(Via Video Conference)

Radha Nath Nandy
versus
The State of West Bengal & Ors.

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973 filed for challenging the judgment and order dated 27.12.2016 in connection with Case No. M.P. 395 of 2014 passed by learned Executive Magistrate, Bidhannagar under Section 133 of the Code of Criminal Procedure.

Mr. Radha Nath Nandy ... Petitioner (In Person).

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

Ms. Swarnali Saha,
Mr. Abhijit Saha ... For the Opposite Party Nos. 3 and 4.

The petitioner appears in person.

Mr. Arijit Ganguly, learned advocate appearing for the State has submitted a report furnished by the Inspector-in-Charge, Lake Town Police Station. Let the said report dated 24.02.2022 be kept on record.

The report reflects that inspection was carried out along with the engineers of the concerned Municipality being South Dum Dum Municipality. The report reflects that there have been deviations which were the subject matter of concern of the present petition. Whether the said deviations would come within the ambit of Section 133 of the Code of Criminal Procedure is to be decided by the learned Executive Magistrate before whom initially the application was filed by the petitioner.

In view of the aforesaid, I set aside the order dated 27.12.2016 wherein the learned Executive Magistrate was pleased to hold that the application under Section 133 of the Code of Criminal Procedure is not maintainable. The learned Executive Magistrate will take into account whether the illegal extensions as reported by the concerned municipal engineers are cause of concern including irritation to the present petitioner.

The learned Executive Magistrate is directed to take steps including pass necessary direction upon the Municipal authorities regarding the illegal constructions which have been mentioned in the report after affording opportunity to the affected parties. The learned Executive Magistrate will primarily emphasis on the issue of “nuisance” and pass necessary direction upon the Municipal authorities to pass appropriate orders in accordance with the Municipal Laws.

Learned advocate appearing for the State is directed to hand over copies of the report upon the petitioner appearing in person as well as the learned advocate appearing for the private opposite parties.

With the aforesaid observations, the revisional application being CRR 188 of 2017 is disposed of.

Interim order, if any, is hereby vacated.

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.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)