

15.03.2022

Item No.12
Ct.No.34
dc.

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

C.R.R. 390 of 2020

**Sumanta Kumar Das
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973 filed in connection with Criminal Motion 396/2018 (CIS-Crl Rev-16/19) arising out of M.P. Case No. 2746/2017 (Case No. M-126/18).

Mr. Swapan Kumar Mallick,
Ms. Debolina Chakraborty ... For the Petitioner.

Mr. Saibal Bapuli,
Mr. Arijit Ganguly,
Mr. Bibaswan Bhattacharya ... For the State.

Mr. Shyamal Kanti Banerjee,
Ms. Nipasri Tagore,
Mr. Ratan Pathak ... For the Opposite Party No.2.

The present revisional application was preferred challenging the order dated 30.11.2019 passed by learned Additional District and Sessions Judge, 17th Court, Alipore in Criminal Motion 396/2018 (CIS-Crl Rev-16/19) along with quashing of the proceedings arising out of M.P. Case No. 2746/2017 (Case No. M-126/18). The case number reflects that the same relates to an issue under Section 107 of the Code of Criminal Procedure in respect of differences and disputes relating to the year 2017.

Pursuant to an order passed by this Court on 07.03.2022, Officer-in-Charge, Rabindra Sarobar Police Station submits a report before this Court. Let the said report dated 13.03.2022 be kept on record.

The report reflects that “there is very remote possibility of breach of peace at the locale”.

Mr. Mallick, learned advocate appears on behalf of the petitioner.

Mr. Banerjee, learned advocate appearing for the opposite party no.2 submits that although the issues involved are of the year 2017, yet the jurisdiction of this Court is limited to consider the legality or illegality of the order so passed by the learned Executive Magistrate or for that purpose, the learned sessions court (revisional court).

The provisions under Section 107 of the Code of Criminal Procedure were incorporated to assess public breach of peace and not to settle disputes by way of invoking the powers of the learned Executive Magistrate. The contents of the application under Section 107 of the Code of Criminal Procedure has been considered by this Court and it reflects that the parties are before the civil court as well as on different occasions, they have approached the learned Executive Magistrate under both the provisions of Section 144(2) of the Code of Criminal Procedure and Section 107 of the Code of Criminal Procedure.

Having regard to the report of the Officer-in-Charge, Rabindra Sarobar Police Station, I am of the opinion that the application which was preferred before the learned Executive Magistrate which was for the purposes of assessing the breach of peace and public tranquility at the locale at the relevant point of time is no more existing as on date.

Accordingly, the proceeding before the learned Executive Magistrate being M.P. Case No. 2746/2017 (Case No. M-126/18) has become infructuous and corresponding revisional application has also become infructuous.

The revisional application being CRR 390 of 2020 is, thus, dismissed as infructuous.

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.)