

IN THE HIGH COURT AT CALCUTTA**Criminal Revisional Jurisdiction****Present: - Hon'ble Mr. Justice Subhendu Samanta.****C.R.R. No. – 901 of 2018****IN THE MATTER OF****Arindam Handique****Vs.****The State Of West Bengal & Ors.****For the Petitioners : Mr. Subrata Bhattacharya, Adv.,****For the State : Mr. Arijit Ganguly, Adv,
Mr. Sandip Chakraborty, Adv.****For the opposite party : Mr. Subhrangsu Panda, Adv.
Ms. Ina Bhattacharyya, Adv.
Ms. Mithu Singha Mahapatra,
Adv.****Judgment on : 23.09.2022****Subhendu Samanta, J.**

This is an application U/s 482 of the Code of Criminal Procedure for quashing of a proceeding being C.R. Case No. 88 of 2016 pending before the Learned JM, third Court, Durgapur U/s 85 and 87 of the **Right to fair**

compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013.

A short question is involved in the instant revision. The private respondent initiated a complaint U/s 90 of the **Right to fair compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013** against the accused persons who were the public servant, and Project Director of National Highway Authority.

The complaint was filed U/s 85 and 87 of the Said Act.

Thereafter, the complainants were examined on SA U/s 200 of Cr. P.C. and Learned Magistrate is of opinion that a prima facie case U/s 85, 87 of the Said Act of 2013 has been made out against the accused persons and issued the process.

It has been alleged by the private opposite party complainant that the accused persons has committed offence and forcefully demolished the residential house and structure over the requisitioned land the unlawful activity of the accused persons were well framed and they have intentionally committed the same for which the Criminal proceeding was initiated.

Learned Advocate appearing for the petitioner submitted by the court that the present petitioner is the Project Director of the National Highway Authority of India, the land in question was requisitioned and acquired by the NHAI for construction of National Highway. They have done according to the procedure laid down in the law. It would be revealed that the present

private respondents have received the compensation from the competent authority.

He argued that the instant Criminal proceeding is not at all maintainable and is liable to be quashed.

Heard Learned Advocates it appears that Chapter (xii) of the **Right to fair compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013** provides for offence and penalties. **Section 85 provides penalties for contravention of provisions of Act. Section 87 Provides offence by the Government Departments.**

It appears that the private respondents are aggrieved about the amount of compensation as well as the alleged illegal activities of the Government authorities for forceful demolition of Structure over the acquired land. Chapter (iv) of the Said Act 2013 specifically provides the Notification and the process of Acquisition of land in question. The said Chapter also provides the steps to be taken for payment of compensation by the appropriate Government for acquired land in question. Chapter (v) provides the **Rehabilitation and Resettlement Award**. Chapter (vi) of the Said Act provides **procedure and manner of Rehabilitation and Resettlement**. Chapter (viii) of the Said Act Provides **Establishment of Land Acquisition Rehabilitation and Resettlement Authority**. Chapter (viii) also enumerates the provision that if any person interested and not satisfied regarding the amount of the award may apply before the Authority concerned Section 74 provides the appeal before the Hon'ble High Court against an award passed by the Authority.

It appears that the National Highway Authority of India Act 1988 with its amendment Act 2013 also provides redresses to the aggrieved person for not getting just compensation.

Both the Acts of 1988 as well as 2013 are exhaustive. Alleged offence committed by the concerned Government Authority or any act or omission committed thereby is come under the ambit of the Said Act 2013 and Act 1988.

The initiation of criminal procedure for not following the provisions of the Act or being aggrieved by the amount of award is amounts to the abuse of the process of the court. The aggrieved private respondents have/had scope to appear before the appropriate Authority, so that their grievances may be referred to the Appropriate forum for redressal.

Considering the entire aspect I find their are justifications to entertain the application U/s 482 of Code of Criminal Procedure.

The Criminal proceeding pending before the Learned Magistrate wherein the Learned Magistrate is of a view that prima facie case under Section 85 and 87 of the said Act, 2013 has been made out against the accused persons; is not justifiable in the eye of law. The four corners of the petition of complaint filed U/s 90 of the Said Act 2013 does not postulates any offence punishable U/s 85 and 87 of **Right to fair compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013** So in my view the instant Criminal Revision has got merit and it is liable to be allowed.

The proceeding pending before the Learned Magistrate being C.R. Case No 88 of 2016 is hereby quashed.

The Process, if any, issue in the said proceeding is hereby also recalled.

The disposal of the instant Criminal Revision shall not debar the private respondent to raise their claim of fair compensation before the Appropriate Authority and the Appropriate Authority must provide the private respondent a reasonable opportunity of hearing so that they may get just and proper compensation according to the provisions of law.

Thus, the instant Criminal revision along with CRAN application if any, is disposed of.

Any order of stay passed by this court if any, is also become ineffective.

(Subhendu Samanta, J.)