

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Criminal Appellate Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

**IA No.:CRAN/1/2021
in
CRR 929 of 2021**

**Arun Kumar Mohata
Vs.
The State of West Bengal & Anr.**

For the petitioner : Ms. Farnaz Nasim, Adv.

**For the State : Mr. Madhusudan Sur, Adv.,
Mr. Dipankar Pramanik, Adv.**

**Heard &
Judgement on : 21.06.2022.**

Bibek Chaudhuri, J.

The petitioner has filed CRAN/1/2021 for extension of interim order.

It appears from the revisional application under Section 482 of the Code of Criminal Procedure that the petitioner has filed the said application with a prayer to quash the proceeding being G.R. Case No. 213/2021 arising out of Bidhannagar (North) Police Station Case No.

30/2021 dated 5th March, 2021 under Sections 120B/467/468/471/420/506 of the Indian Penal Code.

It is submitted by the Learned Advocate for the petitioner that an agreement of assignment was executed by and between the parties. On the basis of such agreement, the petitioner paid a token amount of money to the opposite party no. 2 and started renovating the property in question. It is also pleaded that the petitioner spent considerable amount for renovation of the property in question. Subsequently, the opposite party did not hand over the possession of the property as per the agreement of assignment and the petitioner came to know that he started negotiation with third party for delivery of the property in question. Dispute started in the year 2014. FIR was lodged by both the parties. In respect of the said two FIRs were submitted. The cases were disposed of on contest and the dispute has been settled. Now, the petitioner has come up with an application under Section 156(3) of the Code of Criminal Procedure before the Learned Additional Chief Judicial Magistrate, Bidhannagar and the Learned Magistrate sent the said petition to the jurisdictional Police Station with a direction to treat the petition as FIR and start a specific case.

This has prompted the petitioner to move the instant revisional application praying for quashing of the entire proceeding which has already been decided by the competent Court of law previously.

Having heard the Learned Advocate for the petitioner and the Learned Public Prosecutor-in-Charge as well as on perusal of the entire materials-on-record it appears that on the basis of the petition of the opposite party no. 2 the Learned Magistrate passed an order under Section 156(3) of the Code of Criminal Procedure. It is presumed that such order under Section 156(3) of the Code of Criminal Procedure was not passed mechanically as it is a judicial order. On the basis of such petition of complaint filed by the opposite party no. 2, G.R. Case No. 213/2021 was initiated.

If the dispute between the parties is already settled by a competent Court of law and the opposite party no. 2 raises the same dispute on selfsame cause of action, the petitioner can pray for discharging him at the time of consideration of charge.

Accordingly, the instant criminal revision is disposed of directing the Learned Magistrate to give an opportunity to the petitioner to submit his case at the time of hearing on the point of consideration of charge and the Learned Magistrate is directed to pass a reasoned

order on the basis of submission made by the Learned Advocate on behalf of the petitioner in the Trial Court.

The instant criminal revision is accordingly **disposed of** on contest. Consequent to the disposal of the instant revision CRAN/1/2021 is also **disposed of**.

(Bibek Chaudhuri, J.)