

CRR 664 of 2013

IA No: CRAN/3/2014(Old No. CRAN/3705/2014)

Dipak Kr. Ghosh & Ors.- Vs- State of West Bengal & Anr.

Re:An application under Section 482 of the Code of Criminal Procedure.

Mr. Aniruddha Bhattacharya
Ms. Ritwika Ghosh
...for the petitioner.

Mr. Arijit Ganguly
Mr. Sanjib Kr. Dan
....for the State.

The petitioners have preferred the present revisional application for quashing of the proceeding being G.R.Case No. 270 of 2011 (arising out of Kalyani Police Station Case No. 102 of 2011) dated 23.2.2011 under Sections 420/406 of the Indian Penal Code pending before the learned Judicial Magistrate, Kalyani, Nadia.

The factual matrix of the case is that the petitioner no. 1 is the Chairman and the petitioner no. 2 is the Vice Chairman and the petitioner no. 3 to 5 are the Members of the Board of Directors of co-operative Society under the name and style of "Pfizer Employees' Co-Operative Housing Society". The Society raised two multistoried buildings at Plot No. 45, Sub-Block-B of Block-B, Kalyani on a land admeasuring more or less 20 cottahs. The wife/opposite party no. 2 approached the Co-operative Society for allotment of a flat being B-3/3 in the top floor of the said complex and she paid a sum of Rs. 7,17,000/- . Thereafter, the wife/opposite party no. 2 by letter dated 24.5.2004 informed the Co-operative Society that due to cardiac ailments, the opposite party no.2/complainant will be

unable to live in the flat situated at the top floor and she requested for an interchange of a flat to a lower floor. However, Board of Directors of the Housung Society failed to hand over possession of any flat to her or refund any amount. Moreover for purchase of flat in the Multistoried building she availed of loan to the tune of Rs. 3,50,000/- from State Bank of India, Kalyani Branch. On such basis the FIR came to be registered against the petitioners. Being aggrieved by and dissatisfied with the proceeding the petitioners have preferred the present revisional application.

Mr. Aniruddha Bhattacharya, learned advocate appearing on behalf of the petitioner submits that the entire dispute is civil in nature and there is no iota of materials under Sections 420/406 of the Indian Penal Code. Further the Co-operative Society, through one Poline Mondal, issued a cheque of Rs. 4,00,000/- in favour of the wife of opposite party no.2 towards request for partial refund of money to the tune of Rs. 4,00,000/- , which was duly honoured. In the meantime, the wife of opposite no. 2 arranged a flat in the ground floor upon entering into agreement with Sri Subodh Mitra in respect of Flat No. A-G/2. In view of his above submissions he prayed for quashing of the proceedings on the ground of dispute precisely being civil in nature.

Mr. Arijit Ganguly, learned advocate appearing on behalf of the State submits status report along with letter issued by the opposite party no. 2/complainant to Officer-In-Charge,

Kalyani Police Station. Let it be kept with the record.

Upon perusal of letter dated 18.8.2002 issued by the complainant/O.P.No.2 addressed to Officer-in-Charge, Kalyani Police Station, it appears that the Co-operative Society has already returned the money to the complainant and he has disclosed his intention to withdraw the case. Further the dispute appears to be civil in nature relating to allotment of flat in a Co-operative Society and mode of payments. In the aforesaid backdrop if the proceeding is allowed to continue it will be abuse of process of law.

Accordingly, the present revisional application beingt CRR 664 of 2013 is hereby allowed. The criminal proceeding being G.R.Case No. 270 of 2011 (arising out of Kalyani Police Station Case No. 102 of 2011 dated 23.2.2011) under Sections 420/406 of the Indian Penal Code pending before the learned Judicial Magistrate, Kalyani, Nadia stands quashed.

All connected applications stand disposed of.

Interim order, if any, stands vacated.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

Let a copy of this order be sent to the learned trial court for information.

(Bivas Pattanayak, J.)