

11.11. 2022
item No.13
n.b.
ct. no. 551

CRR 1102 of 2018

Sri Prasenjit Kumar
Vs.
The State of West Bengal & Anr.

Mr. Tanmoy Choudhury,
Ms. Ritoprita Ghosh,
.....for the petitioner
Mr. Swapan Banerjee,
Mr. Suman De
... for the petitioner.

The instant criminal revisional application has been preferred under Section 482 of the Code of Criminal Procedure for quashing of a proceeding being G.R. case No. 46 of 2017 arising out of Baruipur Police Station Case no. 3140 of 2016 under Section 420 of the Indian Penal Code.

Learned advocate appearing on behalf of the petitioner submitted before this Court that the present opposite party no.2 is the maid-servant of petitioner. The petitioner entrusted the opposite party no.2 to search for one landed property so that he can purchase the same. The opposite party no.2 through her husband contacted one Bholanath Halder having landed property and purchased the same by registered deed of sale dated April 28, 2014.

It is further submitted by the learned advocate on behalf of the petitioner that the husband of the opposite party no.2 is mason by profession. The petitioner entrusted the

husband of the opposite party no.2 to construct a dilapidated building/structure and renovate the same standing over purchased landed property. The petitioner placed his reliance upon the opposite party no.2 as well as her husband with an expectation that they may renovate the dilapidated building/structure standing over the purchased landed property. After some period it appears that the opposite party no.2 had not contacted the petitioner. Consequently, on search the petitioner found that the opposite party no.2 along with her husband is residing over the landed property. On several request they did not pay heed to the same. Consequently, the petitioner filed several petitions and application before the different forum/authorities. Subsequently, on the later stage it appears that the opposite party no.2 has filed the instant criminal proceeding against the present petitioner under Section 420 of Indian Penal Code contending inter alia that there was an alleged agreement between the husband of the opposite party no.2 with the erstwhile owner of the landed property namely, Bholanath Halder. It has further been alleged that the husband of opposite party no.2 has deposited some money with the erstwhile owner of the property of Bholonath Halder. It has further been alleged that the present petitioner assured that after purchase, he shall sale half of the property in the name of the opposite party no.2 and her husband.

The FIR further contended that the petitioner breached the trust and confidence for which the instant criminal prosecution has been lodged.

Learned advocate for the petitioner contended that the instant allegation in the police report is FIR is concocted. So far as the allegations in the FIR is concerned, it is merely a dispute of civil nature. At best a Civil Suit may be filed for breach of contract but no criminal implication may arise. She again argued at this juncture, the fact of the case goes to show that the FIR is an afterthought and it is filed only to grab the landed property of the present petitioner. He prayed for quashing of the instant criminal proceeding.

Learned advocate appearing on behalf of the State placed the case diary. He further submitted before this Court that after filing the FIR the police conducted investigation. During the course of the investigation the police collected several documents regarding the alleged agreement between the erstwhile owner Bholanath Halder and the husband of the opposite party no.2. The police has also seized and collected a declaration of present petitioner regarding the selling of fifty per cent of the landed property in the name of the opposite party no.2. Police has also collected the statement of available witnesses and all of them supporting the prosecution case. After completion of investigation police has submitted charge sheet.

Learned Additional Public Prosecutor further submitted that the instant criminal revisional application cannot be entertained as because the police has collected several materials in the present case. At this juncture, the present criminal revisional application may be dismissed.

Heard the learned advocate. Perused the materials of case diary. This is the stage wherein the investigation of a proceeding has been concluded and police submitted charge sheet. The case diary as well as the charge sheet reflected there are some materials to support the prosecution case. This court lacking the jurisdiction to entertain the correctness and the validity of the document collected by the police during the course of investigation of this case. More so this court is also not in a position to entertain the prayer of the petitioner and to look into the fact which were prior to the FIR. So, at this juncture if this court intends to interpret the document to their legal perspective that would mean this court would commence a mini trial prior to initiation of the trial before the Magistrate where the instant criminal prosecution case is pending. This course is not permissible in law.

Section 482 of the Code of Criminal Procedure empowers this court to pass an appropriate order in favour of the aggrieved persons where there is no statutory redressal enumerated in the Code of Criminal Procedure.

In considering the entire circumstance of this case, I think it would be appropriate for the petitioner to raise the question regarding the validity and the admissibility of the document so collected by the police at the appropriate stage before the learned Magistrate.

I am not inclined to express any opinion regarding the correctness of any document submitted by the present

petitioner or collected by the police during the course of investigation of this case.

Considering the entire circumstances, I think it is necessary that the instant criminal revisional application had got no merit and it is liable to be dismissed.

In result thereof, instant criminal revisional application is dismissed.

Pending connected application, if any, is hereby disposed of.

It appears that the instant F.I.R. filed on 2016 and the investigation of the police completed in 2017. The petitioner is running pillar to post since long. Thus, learned Magistrate below is directed to conclude the trial of this case as early as possible but more preferably within six months from the date of passing of this order.

The order of stay passed by this court, if any is also vacated.

The criminal revisional application is disposed of.

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

(Subhendu Samanta, J.)