

12.07.2022

Item No.25
Ct.No.34
dc.

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

C.R.R. 977 of 2005

**Niranjana Kundu & Anr.
versus
The State of West Bengal & Ors.**

In Re: An Application under Sections 397/401 read with Section 482 of the Code of Criminal Procedure, 1973.

Mr. Milon Mukherjee, Sr. Adv. ... For the Petitioners.

Mr. Mukherjee, learned senior advocate appears on behalf of the petitioners.

None appears for the State and the private opposite parties.

Records reflect that by an order dated 05.04.2005, a co-ordinate Bench of this Court was pleased to order for stay in respect of operation of the impugned judgment and order dated 23.2.2005 passed by the learned Additional Sessions Judge, 2nd Court, Hooghly in connection with Criminal Motion No. 105/2002 till the disposal of the application.

The subject matter of challenge before the revisional court related to an order passed by learned Executive Magistrate, Chandernagore, Hooghly on 26.04.2002 wherein the learned Executive Magistrate was pleased to hold, inter alia, as follows :

“I also declare in terms Sub-section 6 of Sec 145 Cr.P.C. that the F.P. is entitled to possession on the said plot until evicted therefrom in due course of law and forbid all disturbances of such possession until such eviction.”

In view of nature of the findings of the learned Executive Magistrate, I do not find that any interference is required in respect of the order passed by the learned sessions court wherein the said order of 26.04.2002 was set aside.

However, having regard to the nature of the order which has been passed by the learned Executive Magistrate in respect of possession and eviction, I am of the opinion that the civil court is having exclusive jurisdiction in respect of the dispute. If the Case No. S/158/99 under Section 145 of the Code of Criminal Procedure is still pending before the learned Executive Magistrate, Chandernagore, Hooghly because of the pendency of the present revisional application, I direct the learned Executive Magistrate, Chandernagore, Hooghly to refer the parties to the civil court and provide interim protection in respect of either of the parties till civil court passes any order/interim order in respect of subject matter of dispute.

With the aforesaid observations, the revisional application being CRR 977 of 2005 is disposed of.

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.)