

**24.02.2022**

Item No.39  
Ct.No.34  
dc.

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

**C.R.R. 1051 of 2017  
with  
CRAN 1 of 2017 (Old No. CRAN 2250 of 2017)  
(Via Video Conference)**

**Sri Bidhan Chandra Roy & Ors.  
versus  
Sri Jiten Ghosh & Ors.**

**In Re:** An Application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 filed in connection with M.P. Case No. 158 of 2017 under Section 133 of the Code of Criminal Procedure.

Mr. Animesh Mukherjee,  
Md. Ali Ahasan ... For the Petitioners.

Ms. Sujata Das ... For the State.

Mr. Arunava Ganguly,  
Mr. Akash Chandra Thakur ... For the Opposite Parties.

Mr. Mukherjee, learned advocate appearing for the petitioners submits that earlier an order has been passed by the civil court which has been suppressed by the private opposite parties and the learned Executive Magistrate without knowing the same has passed the order dated 14.02.2017.

Pursuant to the earlier order, a report has been submitted by Ms. Sujata Das, learned advocate appearing for the State. Let the said report dated 21.02.2022 be kept on record.

The said report reflects that service has been effected upon the private opposite parties.

Mr. Arunava Ganguly, learned advocate appears for the private opposite parties.

I have assessed the grievance of the petitioners. The issue which has caused anxiety to the petitioners is that the contents and/or averments made in the application under Section 133 of the Code of Criminal Procedure which according to them, are trying to establish right which is pending before the civil court and the learned Executive Magistrate without having knowledge of the same has entertained the application by passing an order.

Be that as it may, I do not find that the operating part of the order is harming any of the parties associated with this litigation. The order is general in nature without affecting the rights of any of the parties. As such, no interference can be made by this Court.

However, whether under the circumstances, the application under Section 133 of the Code of Criminal Procedure is maintainable or not, which according to the petitioners has been filed by suppressing material facts by the opposite parties, will be a consideration by the learned Executive Magistrate if the same is brought to the notice of the learned Executive Magistrate by appropriate application along with documents enclosed therein. If such an application is filed regarding maintainability of the proceedings under Section 133 of the Code of Criminal Procedure at the instance of the present petitioners, the learned Magistrate, after issuing notice to both the parties and granting time of 45 days, would dispose of the same in accordance with law.

With the aforesaid observations, the revisional application being CRR 1051 of 2017 is disposed of.

Interim order, if any, is hereby vacated.

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.)**