

CRR 1441 of 2004
CRAN 2 of 2021

In the matter of : M/S. Britannia Industries Ltd. & Ors.

Mr. Sandipan Ganguly, Sr. Adv.
Mr. Sabyasachi Banerjee
Mr. Somopriyo Chowdhury
Mr. Deepan Kr. Sarkar
Mr. Arti Bhattacharya for the petitioners

Mr. Swapan Banerjee
Ms. Purnima Ghosh for the State

Heard the submissions of Mr. Ganguly, learned senior counsel representing the petitioners and Mr. Swapan Banerjee, learned counsel representing the State.

This proceeding stems out of an application under Section 482 of the Code of Criminal Procedure filed by the petitioners challenging the proceeding at the instance of Alipur Sadar Regulated Committee (as then was) presently known as South 24 Parganas Regulated Market Committee, respondent no. 2 herein.

From the attending facts of the case it appears that the respondent no. 2 filed petition of complaint before the learned Chief Judicial Magistrate, 24 Parganas South which was transferred to the learned Judicial Magistrate, 9th Court, Alipur, South 24 Parganas for disposal being case No. C-514 / 02. Now the respondent no. 2 has decided not to proceed with the complaint case pending before the learned Judicial Magistrate, 9th Court, Alipur, South 24 Parganas. The respondent no. 2 has made the decision of the committee clear in writing twice. Once on 25.8.2022 and subsequently on 23.9.2022.

Section 16 of the West Bengal Agricultural Produce Marketing (Regulation) Act, 1972 speaks about the duties of the Secretary and the other officers and employees. The Secretary is supposed to discharge such duties as may be entrusted to him by the market committee. From Section 5

Sub-section 6 of the said Act it appears that the Chairman shall be the executive head of the market committee. The report submitted by the Secretary, however, is bereft of any whisper regarding the power delegated upon him to convey the decision of the market committee. The cause title of the petition of complaint, however, indicates that the Secretary was authorized to file the complaint before the competent Court. Therefore, it may be presumed that the Secretary has been conferred with the necessary authority, to submit such report.

On the last occasion i.e. on 28.9.2022 Mr. Subhranshu Singha Ray, Secretary, South 24 Parganas Regulated Market Committee, respondent no. 2 was appeared before this Court in person and verbally submitted that the Market Committee is no longer willing to proceed with the criminal case pending before the learned Trial Court.

Under such circumstances, I am of the view that keeping the proceeding is pending before the learned Trial Court would amount an abuse process of law particularly when the complainant is not willing to proceed with the case.

Invoking the inherent power conferred under Section 482 of the Code of Criminal Procedure, I am inclined to quash the proceeding pending before the learned Judicial Magistrar, 9th Court, Alipur, South 24 Parganas being case no. C-514 / 02. However, it is made clear that another rights available to the market committee under the statute shall not be affected by this order.

The criminal revision along with other applications are accordingly disposed of.

(Siddhartha Roy Chowdhury, J.)