

D/L58
April 4,
2022
Bpg.

C.R.R. No.1757 of 2017
With
CRAN 1 of 2017 (Old CRAN 2988 of 2017)

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

Goutam Chatterjee
Versus
The State of West Bengal & Anr.

Mr. Biplab Mitra,
Ms. Trina Mitra.
...for the petitioner.

Mr. Ranabir Roy Chowdhury,
Mr. Mirza Firoz Ahmed Begg.
...for the State.

The report has been received from the Sub-Inspector of Police, Khardah Police Station, wherefrom it reflects that on or about January, 2022, the opposite party no.2, namely, Kiran Biswas has expired on 15.01.2022. Let the report be kept with the record.

The grievance of the petitioner relates to a transaction effected in the year 2011 when the present petitioner advanced a sum of Rs.5,00,000/- by way of loan through banking transactions. The case was instituted on the basis of an application under Section 156(3) of the Code of Criminal Procedure wherein a direction was passed to investigate by treating the said petition of complaint as FIR. The police authorities on conclusion of investigation submitted charge-sheet under Sections 420/120B/382 of the Indian Penal Code. So far as the transactions of the amount of Rs.5,00,000/- are

concerned, the materials surfacing in the case diary by way of documentary statements do not reflect that the said was repaid. However, there are oral statements to the effect that although a written agreement was entered but the present accused started charging interest and there are allegations also that the present petitioner being a builder/promoter tried to grab the property of the complainant and intended to take advantage of the loan which he had initially granted.

I have perused the report under Section 173 of the Code of Criminal Procedure which has been prepared by the Investigating Officer and submitted before the jurisdictional court. I do not find that any document has been relied upon by the Investigating Officer to substantiate its case so far as the offence under Section 420 of the Indian Penal Code is concerned which is the genesis and foundation of the application under Section 156(3) of the Code of Criminal Procedure and for which the investigation commenced. No document is also available with respect to the allegations that on a blanket stamp paper insertions were made for the purposes of grabbing the property of the complainant. As such, the allegations under Section 382 of the Indian Penal Code are also not sustainable.

Considering the overall materials which surfaced in course of investigation of the case, I am of the view that so far as the narration of the facts are concerned in respect of the allegations, the same primarily do not make out any offence either under Section 420 of the Indian Penal Code or under Section 382 of the

Indian Penal Code. Accordingly, further continuance of the proceedings are abuse of the process of the court and, as such, calls for interference. Thus, all further proceedings arising out of Khardah Police Station Case No.161 of 2016 dated 12.03.2016 including the charge-sheet filed therein as also subsequent orders are hereby quashed.

Accordingly, CRR 1757 of 2017 is allowed.

Pending applications, if any, are consequently disposed of.

Interim order, if any, is made absolute.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Tirthankar Ghosh, J.)