

23.08.2022
Item No. 17
Ct. No.40
d.g.

CRR 2474 of 2011

**Tushar Bhattacharya & Anr.
vs.
The State of West Bengal & Anr.**

**Mr. Krishnendu Bhattacharya,
Mr. Priyankar Ganguly,
Ms. Shalini Bairagi.**

... for the petitioners

**Mr. Narayan Prasad Agarwala,
Mr. Pratick Bose.**

... for the State

Mr. Narayan Prasad Agarwala, along with Mr. Pratick Bose, learned Counsels, appear for the State. Their appointment may be regularized.

Affidavit-of-service filed in Court today is taken on record.

The instant application is filed under Section 482 of the Code of Criminal Procedure praying for quashing of the complaint case and setting aside the impugned orders dated 19.09.2010 and 10.06.2011 passed by the learned Judicial Magistrate, 4th Court, Asansol, in Complaint Case No. C 790 of 2010 under Section 420/34 of the Indian Penal Code.

Mr. Bhattacharya, learned Counsel appearing for the petitioners submitted that the dispute is more civil in nature. Except the solemn affirmation not a single piece of document was produced by the complainant in the complaint case in support of his claim. Out of Rs.19,71,555/-, only Rs.5,24,194/- is due and payable, as

averred in the complaint whereas the rest of the amount had already been paid.

According to Mr. Bhattacharya, the complaint case is liable to be quashed. He further submitted that process was issued in this case in terms of the order dated 19.09.2010 in the mechanical manner without application of mind. According to him, this is another reason why the complaint should be quashed.

Mr. Agarwala, learned Counsel appearing for the State candidly admitted that no document was produced along with the complaint.

Heard the rival submissions.

The case, as appears from the complaint itself, prima facie, indicates a civil dispute and is related to settlement of accounts between the parties. But no document was produced along with the application in support of averments made in the complaint. Even no document related to payment and acceptance of part payment is there in the record.

The Judicial Magistrate, 4th Court, Asansol without assigning any reason came to a conclusion that prima facie was made out.

On careful examination of documents along with the applications, it appears that it is a fit case which demands interference under Section 482 of the Code of Criminal Procedure.

Accordingly, the Complaint Case No. C-790 of 2010 under Section 420/34 of the Indian Penal Code pending before the Judicial Magistrate, 4th Court, Asansol, West Burdwan (at present) is hereby quashed.

A copy of this order be sent to the concerned Court forthwith by the department.

There will be no order as to costs.

Accordingly, the instant revisional application stands disposed of.

(Sugato Majumdar, J.)