

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

CRR 2493 of 2022

Sharmila Saha & Ors.

-Vs-

The State of West Bengal & Ors.

For the Petitioners : Mr. Debabrata Acharyya, Adv.,
 Ms. Sital Samanta, Adv.

For the State: None

Heard on: 23 August, 2022.

Judgment on: 23 August, 2022.

BIBEK CHAUDHURI, J. : –

1. Petitioners have filed the instant revision praying for quashing of the proceeding being N.G.R 545 of 2019 pending before the learned Special Executive Magistrate Court within Bidhannagar Police Commissionerate at Bidhannagar.

2. It is stated by the petitioners that the opposite party No.2 runs hotel business under name and style of “Hazarduari Residency” at premises No.238/22, Jessore Road, a dispute cropped up in between the members of Airport City Flat Owners Association and opposite party No.2 and other user of common passage running between the Airport City and

the said Hotel. The petitioner and the opposite party No.2 were also involved in the dispute over illegal installation of grill gate on the common passage and sinking deep tube well in common space. The members of Airport City Flat Owners Association lodged a complaint against the opposite party No.2 for her illegal construction with the North Dum Dum Municipality on 24th December, 2018. It was decided in a meeting convened North Dum Dum Municipality that the engineer of the said Municipality would inspect the disputed premises and however it was found that illegal construction was made. The opposite party No.2 was directed to dismantle such unauthorized construction. Challenging the resolution adopted in the meeting between the said representatives of the said Flat Owners Association, opposite party No.2 and North Dum Dum Municipality, the opposite party No.2 preferred a Writ application being W.P No.2381(W) of 2019. Subsequently on the basis of letter of complaint submitted by the opposite party No.2, the Officer-in-Charge of Airport Police Station drew up a proceeding under Section 107/116(3) of the Cr.P.C against the petitioners.

3. The said proceeding resulted in filing of N.G.R No.545 of 2019 against the petitioners.

4. The petitioners have prayed for quashing of the said proceeding on the ground that no proceeding under Section 107 can be kept pending beyond the period of 6 months in view of the provision contained in Section 116(6) of the Cr.P.C.

5. Considered the meeting in the instant revision and on perusal of the materials on record, this Court of the view that the instant revision can be disposed of here and now.

6. Section 116 of the Cr.P.C runs thus:

116. Inquiry as to truth of information.-

(1) When an order under section 111 has been read or explained under section 112 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant, issued under section 113, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

(2) Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trial and recording evidence in summons- cases.

(3) After the commencement, and before the completion, of the inquiry under sub- section (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 111 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded:

Provided that-

(a) no person against whom proceedings are not being taken under section 108, section 109, or section 110 shall be directed to execute a bond for maintaining good behaviour;

(b) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 111.

(4) For the purposes of this section the fact that a person is an habitual offender or is so desperate and dangerous as to render his being at large without security hazardous to the community may be proved by evidence of general repute or otherwise.

(5) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just.

(6) The inquiry under this section shall be completed within a period of six months from the date of its commencement, and if such inquiry is not so completed, the proceedings under this Chapter shall, on the expiry of the said period, stand terminated unless, for special reasons to be recorded in writing, the Magistrate otherwise directs:

Provided that where any person has been kept in detention pending such inquiry, the proceeding against that person, unless terminated earlier, shall stand terminated on the expiry of a period of six months of such detention.

(7) Where any direction is made under sub- section (6) permitting the continuance of proceedings, the Sessions Judge may, on an application made to him by the aggrieved

party, vacate such direction if he is satisfied that it was not based on any special reason or was perverse.

Plain reading of the above provision shows that after an order being passed under Section 107 of the Cr.P.C, inquiry as to the truth of opinion shall be completed within a period of 6 months from the date of its commencement, and if such inquiry is not so completed, the proceeding under Section 107 of the Cr.P.C stands terminated on the expiry of the said period, unless for special reasons to recorded in writing the Magistrate otherwise directs.

7. N.G.R Case No.545 of 2019 is kept pending for more than 3 years.

8. Therefore the aforesaid proceeding is liable to be terminated. Accordingly the instant revision is disposed of directing N.G.R No.545 of 2019 pending before the Executive Magistrate, Bidhannagar terminated on efflux of time.

(Bibek Chaudhuri, J.)