

22.11.2022
S/L No.35
KS

C.R.R. 2190 of 2021
Supriya Bose
-Vs.-
Anirban Modak @ Anirban Dutta & Anr.

Md. Shabir Ahmed
Md. Abdur Rakib
..... For the Petitioner

Mr. Ahmed, learned advocate appears on behalf of the petitioner.

The present revisional application was preferred challenging the proceedings pending before the Learned Judicial Magistrate, 10th Court, Calcutta in connection with A.C. No.4763 of 2019. The subject-matter of the complaint relates to the brokerage associated with the purchase of a flat and non-payment regarding the same.

Learned Magistrate on examination of the complainant and the witnesses was pleased to issue process under Sections 420/ 506/ 120B of the Indian Penal Code.

I have assessed the allegations made in the petition of complaint as also the version of the complainant under Section 200 of the Code of Criminal Procedure.

Having regard to the allegations made in the petition of complaint as also the initial deposition of the complainant, I am of the opinion that the criminal case has been initiated for recovery of the amount of brokerage, which do not satisfy the ingredients of Section 420 of the Indian Penal Code. There is nothing on record to reflect that there was any initial

deception on the part of the present petitioner to allure the complainant or commit deceit thereby in any manner compelling the complainant to part with his own property. The bone of contention/allegation in the complaint do make out a case for breach of the agreement and for recovery of the said money.

Taking into account the crux of the allegations, prima facie, I am of the opinion that no case has been made out under Section 420 of the Indian Penal Code for continuance of the present proceedings, so far as the allegations under Sections 506 and 120B of Indian Penal Code are concerned those were supplemental to the main allegation under Section 420 of the Indian Penal Code and no supporting materials were produced by way of documentary evidence before the Court.

Having regard to the same, I am of the view that further continuance of complaint case being, A.C No.4763 of 2019 before the Learned Judicial Magistrate, 10th Court, Alipore, South 24 Parganas is unwarranted and, as such, the same is quashed.

Accordingly, C.R.R. 2190 of 2021 is allowed.

Pending applications, if any, are consequently disposed of.

All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)