

27.09.2022
BMJR
Item no. 28
Ct. No.236

CRR 2794 of 2011

**Susanta Debnath
Vs.
State of West Bengal & Anr.**

Ms. Manisha Chatterjee

.... For the petitioner

This proceeding stems out of an application under Section 482 of the Code of Criminal Procedure read with Article 227 of the Constitution of India filed by Sri Susanta Debnath seeking order to quash the proceeding arising out of Jadavpur Police Station Case No.83(3) of 2003 under Sections 420/406/120(B) of the Indian Penal Code.

Briefly stated the petitioner entered into an agreement with accused no.1 and 2 and purchased one flat from them. According to the petitioner, he is a bona fide purchaser with value. Developers being accused nos.1 and 2 entered into the agreement with de facto complainant for developing the property owned by Sri Sailendra Narayan Chakraborty who set the criminal administration of justice into motion by informing Jadavpur Police Station against them about the alleged offences and a case was registered under Sections 420/406/120(B) of the I.P.C.

Ms. Manisha Chatterjee, learned counsel, representing the petitioner submits that earlier another purchaser of the flat approached this Court for quashing of the proceeding and learned Co-Ordinate Bench of this Court having found the petitioner to be a innocent purchaser of flat with value quashed the proceeding as

against him.

My attention is drawn to the order passed by the Co-Ordinate Bench of this Court in C.R.R 4262 of 2007.

Having perused the materials placed before this Court I find that the petitioner before this Court is also bona fide purchaser of the flat constructed by accused nos.1 and 2 as developer by dint of an agreement entered into by and between owner of the property Sri Sailendra Narayan Chakraborty and the developers. There is no iota of evidence indicating culpability of the petitioner towards the offence within the meaning of Sections 420/406/120(B) of the I.P.C. Sri Sailendra Kumar Chakraborty as well as one of the accused persons Sri Swapan Kumar Guha both are now dead. Sri Sailendra Narayan Chakraborty died on 26.11.2005 while accused no.2 Sri Swapan Kumar Guha died on 10.11.2010. Be that as it may, since from the very nature of the allegation the dispute appears to be civil in nature having found no material to implicate the petitioner for committing any offence within the meaning of Indian Penal Code, I am of the view that in order to avert miscarriage of justice the proceeding should be quashed as against the petitioner which I, accordingly.

Revisional application is, thus, disposed of together with interim application, if any.

Let a copy of this order be sent to the learned Chief Judicial Magistrate, Alipur, South 24-Parganas for information.

(Siddhartha Roy Chowdhury, J.)

