

19.12.2022

Item No.31
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 2475 of 2021

**Mrinal Kanti Ganguly
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973.

Mr. Niladri Sekhar Ghosh,
Ms. Sutanuka Chaudhury,
Ms. Sompurna Chatterjee,
Mr. Sourav Mondal ... For the Petitioner.

Mr. S. G. Mukherjee, Ld. P.P.,
Mr. Sandip Chakraborty ... For the State.

Affidavit-of-serviced filed in Court today be kept on record.

This revisional application has been preferred on the foundation of an observation made in W.P.No.25605(W) of 2018 wherein a co-ordinate Bench of this Court by an order dated 17.01.2019 was pleased to observe that the dispute pertains to possession of an immovable property and involves disputed questions of fact and the petitioner would be at liberty to approach the competent civil court. In the same breath, it was also directed that the investigating agency to conduct investigation in the criminal cases in a fair and impartial manner and conclude the same as expeditiously as possible.

The investigating agency on conclusion of investigation in connection with Sonarpur Police Station Case No.1956 of 2018 dated 10.11.2018 submitted charge-sheet on

31.12.2018 under Sections 447/341/325/354/427/506/34 of the Indian Penal Code.

Mr. Ghosh, learned advocate appearing for the petitioner submits that the allegations relating to offences under Sections 341/427 of the Indian Penal Code are not applicable in view of the observations of a co-ordinate Bench of this Court regarding the dispute being observed to be in respect of issues relating to possession of an immovable property.

Mr. Sandip Chakraborty, learned advocate appears for the State.

I have considered the submissions of the learned advocates appearing for the parties. I find that there are Sections in the charge-sheet which pertain to offences under Sections 325/354 of the Indian Penal Code which do not cover merely the issues relating to immovable property, but are separate and distinct offences. Having regard to the contentions raised in respect of questions of fact, I am of the opinion that the issue canvassed cannot be considered at this stage. The petitioner would be at liberty to approach the learned Magistrate at the stage of consideration of charges. As such, no interference is called for.

With the aforesaid observations, the revisional application being CRR 2475 of 2021 is disposed of.

All pending connected applications, if any, are consequently disposed of.

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

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

(Tirthankar Ghosh, J.)