

01.12.2022
S/L No.22
KS

C.R.R. 2673 of 2021
Sri Dilip Halder & Anr.
-Vs.-
The State of West Bengal & Ors.

Mr. Tapan Dutta Gupta
Mr. Parvej Anam
Ms. Rituparna Ghosh
Mr. Sourav Sardar
Ms. Nilanjana Sarkar
.....For the Petitioners
Mr. Saibal Bapuli
Mr. Bibaswan Bhattacharya
.....For the State
Mr. Goutam Dinda
Mr. Anindya Sundar Chatterjee
.....For the K.M.C.

The present revisional application relates to Behala Police Station Case No.105 of 2019 dated 11.04.2019 under Section 401A of the K.M.C. Act. The allegations are serious regarding construction of an additional floor. The police authorities submitted charge-sheet under Section 173 of the Code of Criminal Procedure and the Serial No.10 in the formal report under Section 173 of the Code of Criminal Procedure reflects that there were no documents which were recovered or seized in course of the investigation. In fact, the report reflects that there is a 'nil' seizure.

Mr. Bhattacharya, learned advocate appearing for the State submits that there are documents which are available in the Case Diary and the police authorities have not relied upon the same while submitting the charge-sheet before the jurisdictional Court.

Mr. Dinda, learned advocate appearing for the K.M.C. authorities do reiterate the allegations made in the letter of complaint which relate to the First Information Report that there are reports prepared by the Executive Engineers

of the K.M.C. to the effect that illegal construction relating to a floor was made which was beyond the scope of the sanctioned plan of the Kolkata Municipal Corporation. Be that as it may, the petitioners have approached this Court on separate set of ground being land owners at the disputed premises which is the subject-matter of the case.

Having regard to the charge-sheet which have been filed before the Learned Jurisdictional Court which is without any documents, I find that the scope of arriving at a definite finding is very bleak.

Accordingly, the charge-sheet so submitted by the concerned officer/Investigating Officer of Behala Police Station Case No.105 dated 11.04.2019 is hereby quashed. However, the First Information Report in this case remains. Accordingly, the police authorities will further investigate and submit proper documents so collected as has been submitted by learned advocate appearing for the State and file another report under Section 173 of the Code of Criminal Procedure before the Jurisdictional Court.

Henceforth, it is directed that before filing any report under Section 173 of the Code of Criminal Procedure, the police authorities would consult the complainant or the designated officer at whose instance the proceedings were initiated.

Accordingly, C.R.R. 2673 of 2021 is allowed with the directions as stated above.

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.)

