

09.11.2022

Court No.35
Item No. 17

d.g.

CRR 2941 of 2016

With

CRAN 6 of 2022

Smt. Bina Roy & Ors.

Vs.

Pampa Roy & Ors.

Mr. Swapan Kumar Mallick,
Ms. Sudeshna Das.

... for the petitioners

Mr. S.K. Sanyal,
Mr. R.K. Bhattacharjee,
Mr. S. Banerjee.

... for the OP nos. 1 & 2

This is an application under Section 482 of the Code of Criminal Procedure, 1973 challenging the proceedings in case no. C-519 of 2013 (T.R. No. 250/2013) under Sections 406/420/506/120B/34 of the Indian Penal Code.

Opposite party nos. 1 & 2 are the complainants in the Court below alleging some criminal conspiracy against the petitioners and fraud practiced by them in order to mutate the concerned property in their name, depriving thereby the petitioners who claimed themselves to be the rightful owner of the property. It is submitted that documentation regarding the same in the Municipal records has been made at the behest of the opposite parties and they were in possession of the title deed of the same. According to them, the fraud has been committed by the present petitioners in claiming their ownership over the same by mutating their name in the municipality.

Petitioner's claim is that the entire facts as narrated down in the complaint against them is only concoction and wrongful, in so far as they are the rightful owner of the concerned property by virtue of a deed of convenience duly executed in their favour.

Thus, on the ground of no ingredients of offence having been available against them, they have prayed for quashing of the entire proceedings in the Court below by filing the present revision case.

On behalf of the petitioners, it is submitted that the criminal case

as above has only maliciously been filed against them whereas the complainant/opposite parties practically had no ground to proceed in a criminal case against them.

Petitioners have been vehemently protested against by the opposite parties who submit that in spite of their possessing over the title deed of the property and unless there would have been any conspiracy by the petitioners, the property could not ever been transferred in their name.

This submission is, however, found to be based upon mere conjecture and not on any documents which could be produced in Court.

Considering the facts and circumstances of the case, it appears that ingredients of offence as alleged against the petitioners in the afore-stated complaint case under Sections 406/420/506/120B/34 of the Indian Penal Code are not available in this case. It is not denied that the present opposite parties are not possessing any title deed of the property or that the same has been transferred to them by due execution of deed of conveyance. The dispute if any, between the parties appear to be overwhelmingly civil in nature.

On the ground as above, I do not find any impediment to allow petitioners' prayer for quashing the proceedings in the Court below and thus, it is ordered that the case no. C-519 of 2013 and the entire proceedings thereof be quashed and set aside.

Connected applications, if any, stand disposed of.

Parties are granted liberty to obtain server copy of this order, for any future reference, until certified copy of the same is obtained.

(Rai Chattopadhyay, J.)