17.01. 2022
item No.44
n.b.
ct. no. 34

(via video conference)
CRR 1918 of 2020
With
IA No: CRAN 1 of 2020

Sri Biplab Dutta
Vs.
The State of West Bengal & Anr.

Mr. Sujan Chatterjee,
Mr. Pran Gopal Das,
.....for the Petitioner.
Mr. Madhusudan Sur,
Mr. Dipankar Paramanick,
.... For the State.

Ms. Priyanka Shaw,
... for the opposite party.

The subject matter of the present case relates to the order dated 6.2.2020 passed by the Learned Additional District and Sessions Judge at Alipore, South 24-Parganas wherein the Learned Revisional Court was pleased to dismiss the criminal revision.

Records reflect that by an order dated 30.12.2019 the Learned Judicial Magistrate, Fourth Court at Sealdah after considering the materials available on record was pleased to dismiss the application under Section 239 of the Code of Criminal Procedure preferred at the instance of the present petitioner and fixed date for framing of charge.

Mr. Chatterjee, learned advocate appearing for the petitioner submits that there are documents referring to purchase of the gold ornaments for which the petitioner paid tax and such documents were handed over to the Investigating Agency. According to him, the Investigating Agency, in spite of having the said documents did not conduct any investigation/enquiry over the said issue and arbitrarily implicated the present petitioner under Section 411 of the Indian Penal Code. Additionally, it has been submitted that the Learned Judicial Magistrate(Trial Court) as also the Learned Revisional Court without application of any mind arrived at the finding and as such interference is called for.

I have considered the submission of the Learned Advocate for the petitioner as well as Mr. Madhusudan Sur, learned advocate appearing for the State. Mr. Sur has also relied upon the materials appearing in the Case Diary. Report submitted by Mr. Sur be kept on record. On an appreciation of the contentions advanced by the learned advocate for the petitioner as well as for the State, the following issues emerge:

1. The contentions of the learned advocate for the petitioner being of bone fide purchase for value without notice – whether it can be considered at this stage.
2. The veracity of the documents so relied upon – whether the same can be contested at this stage.
3. Even if a person paid tax – whether purchase of alleged stolen materials can exonerate him from facing the trial.

To the best of the understanding of this court, none of the issues raised above can be held in favour of the petitioner as payment of the tax can not exonerate a person from the charges under criminal law.

The issue of intention whether it is bone fide or mala fide is to be gone into at the stage of the trial.

Thirdly, the issues so raised are question of facts and there is no legal embargo or any miscarriage of justice being inflicted upon the petitioner so as to terminate the proceedings at this stage.

In view of the observations made above, I am of the opinion that no interference is called for at this stage.

The Revisional application being CRR 1918 of 2020 is dismissed.

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

Interim order, if any, is hereby vacated.

Learned Trial Court will proceed with the framing of charges on the next date, if not already framed and proceed with the trial in a regular manner thereby taking the case to its logical conclusion within a reasonable period of time.

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

(Tirthankar Ghosh, J.)