

13.01.2023
S/L No.7
KS

C.R.R.13 of 2021
With
IA No. CRAN 9 of 2022
Ramprosad Roy & Anr.
-Vs.-
The State of West Bengal & Anr.

Mr. Sourav Chatterjee
Mr. Arnab Das
Mr. Sushant Biswakarma
Ms. Epsita Bhattacharya
.....For the Petitioners
Mr. Madhusudan Sur
Mr. Dipankar Paramanick
.....For the State
Mr. Jayanta Narayan Chatterjee
Ms. N. Chatterjee
Mr. S. Naskar
Ms. S. Ghosh
Ms. R. Banerjee
.....For the O.P.

On perusal of the report submitted by the Investigating Officer, I am of the opinion that the investigation must be taken to its logical conclusion.

Learned advocate appearing for the petitioners submits that there has been continuous commercial transaction between the petitioners and the private opposite party and he has documents in his custody to show that the amount complained of which has been alleged to be misappropriated and for which the provisions of Section 409 of the Indian Penal Code has been invoked have been remitted/reimbursed/repaid by a person namely, Nazrul whose name is

appearing in the application under Section 156(3) of the Code of Criminal Procedure.

Be that as it may, this Court cannot travel beyond its jurisdiction to assess regarding the truth and falsity of the allegations made in the application under Section 156(3) of the Code of Criminal Procedure. The case under Section 156(3) of the Code of Criminal Procedure was that goods in the nature of dry fruits and spices were stored in the godown of the accused person which were worth more than Rs.8 crores. The specific allegation at the instance of the opposite party is that the entrusted goods were removed from the storehouse without his knowledge regarding the applicability of Section 409 of the Indian Penal Code.

Mr. Sourav Chatterjee, learned advocate appearing for the petitioners intends to join an issue relating to the section under which the F.I.R. was registered. Sections of the Indian Penal Code are not relevant at the stage of investigation which can be amended at the time of filing of the report under Section 173 of the Code of Criminal Procedure.

Having regard to the stage at which the Investigating Officer has collected evidence and the petitioners contend that they have documents in their custody, I am of the view that the Investigating Officer will not be able to arrive at his final opinion without assessment of the documents. Such assessment of documents are not within the domain of this Court.

In the facts and circumstances of the case, the following directions are passed:-

- a) The petitioners shall not be arrested till 15th February, 2023;
- b) The petitioners shall once in a week appear before the Investigating Officer and submit all the documents in their custody;
- c) The Investigating Officer will assess the documents which have been furnished by the petitioners and consider the same in the background of the facts of the case.
- d) The petitioners are further directed to exhaust other remedies in law within 15th February, 2023.

With the aforesaid observation, C.R.R.13 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

Petitioners would be at liberty to approach this Court after the report under Section 173 of the Code of Criminal Procedure, if any, is filed before the jurisdictional court.

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.)