

19-07-2023
Subha
Item no. 21
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 407 of 2023

Sujit Kumar Mitra & Anr.

-versus-

Gaurab Kumar

Mr. Debajyoti Deb
Mr. Animesh Paul
Ms. H. Rajdev
Ms. Marie Kundu

....for the petitioners.

Mr. Apalak Basu

...for the Opposite Party.

Mr. Deb, learned advocate appearing for the petitioners submits that there are no legally enforceable liabilities so far as the present case is concerned as the civil court has already held that in respect of the transactions having taken place between the parties, the petitioners have paid substantial amount of money.

Learned advocate further submits that the petitioners have been back-stabbed by their own Chartered Account who have used security cheque which was not issued in respect of any debt or liability. It has been insisted by the learned advocate that the present proceedings have been initiated by an acquaintance who has used trust and faith and twisted the circumstances in his favour to create a cause of action for initiation of a criminal proceeding.

Learned advocate also submits that a civil suit is pending between the parties and the petitioners are covered by an order of injunction passed by the civil court.

Petitioners are directed to serve a copy of the revisional application upon Mr. Apalak Basu, learned advocate appearing for the complainant/opposite party.

Learned advocate for the complainant/opposite party submits that the complaint was filed in the year 2019. There were directions by the High Court for expeditious disposal of the case and in the month of January, 2023 also there was a direction for expeditious trial within a scheduled period.

The petitioners by filing the revisional applications are disrupting the smooth progress of the trial and adopting dilatory tactics for stretching the time before the learned trial court and till date the petitioners have not complied with the provisions under Section 143A of the N. I. Act wherein directions have been passed by the learned trial court.

I have considered the submissions advanced on behalf of the learned advocate appearing for the petitioners as well as the learned advocate appearing for the complainant/opposite party and I am of the view that the points so canvassed by the petitioners at this stage are not to be adjudicated as the issue relating to legally enforceable debt or liability is a question of fact which is to be placed by the complainant and rebutted by the accused in course of the trial before the learned trial court.

So far as the other issues are concerned, I am of the opinion that mere pendency of a civil court proceedings and/or any injunction therein until and unless the same has direct bearing on the cheque in issue, there is no bar for the criminal court to

proceed with the case.

There is no scope for interference in respect of the prayers so advanced in the present revisional application.

The learned trial court is directed to comply with the earlier order passed by the Co-ordinate Bench for expeditious disposal. If for reasons beyond its control it could not complete the same within the schedule fixed in the said order, at least in course of the year preferably by 31st December, 2023, the learned trial court would take steps so that the judgement is delivered by the learned trial court.

With the aforesaid observations, the revisional application which has been preferred in connection with Complaint Case No. CS/48418 of 2019, being CRR 407 of 2023 is disposed of.

Pending applications, if any, are consequently disposed of

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]

