

20.04.2023

Court No.35
Item No. 44

D.Hira

CRR 216 of 2015

**Dulal Chandra Saha
Vs.
The State of West Bengal**

Mr. Kallol Mondal,
Mr. Krishan Ray,
Mr. Souvik Das,
Mr. Samsheer Ansari,
Mr. Ayan Mondal.

... for the petitioner

Mr. Pravas Bhattacharyya,
Mr. M.F.A. Begg.

... for the State

This is a case which the petitioner prefers before this Court with his prayer for quashing of the proceeding being G.R. Case no. 490 of 2013. The same arises out of Balagarh Police Station Case No. 65 of 2013 under Section 4D of the West Bengal Land Reforms Act, 1955, and is now pending in the Court of Judicial Magistrate, 3rd Court, Chinsurah, Hooghly.

Petitioner is the accused person in Balagarh Police Station Case No. 65 of 2013 dated 24.03.2013 under Section 4D of the West Bengal Land Reforms Act, 1955.

The FIR has revealed an allegation against the present petitioner of illegally and unauthorisedly excavating the concerned land, for which he is punishable under the afore-stated provisions of law. The informant writes that the petitioner has been cautioned and served with notice on 17.01.2013 but to no avail and allegedly the illegal activities of the petitioner is being proceeded with.

Mr. Mondal, learned Advocate has categorically submitted that whatever activities his client is conducting as regards the said land, is with due authority, in so far as the petitioner has duly submitted the prescribed fees and complied with all the prescribed formalities before

excavating the concerned land.

He has relied on an annexed document, that is, the photocopy of the receipt being Receipt No. 365/5 dated 21.3.2013 to submit that the petitioner has duly remitted the fees for the purpose, to the tune of Rs.1,53,000/-, having been credited to the accounts of the concerned authority.

On the last occasion vide this Court's order dated 12.4.2023 a report was called for from the State. On the questions :

(i) whether the receipt no. 364/5 dated 21.03.2013 copy of which has been annexed by the petitioner with the present case, is a genuine document or not and (ii) whether an amount of Rs.1,53,000/- has been deposited with the State exchequer for the said purpose on 21.03.2013 or not.

Mr. Bhattacharyya, learned Advocate for the State has submitted a report of the competent authority to that effect, the Court today, which may be kept with the record.

It is noted from the said report that the document being the receipt of payment of excavation fees is said to be a genuine document and also that the amount of Rs.1,53,000/- has been duly credited with the treasury, in the accounts of the authorities.

Taking note of the said fact, it is found in this case that the allegations against the petitioner as levelled in the FIR dated 21.03.2013 is not substantiated and is unfounded. The entire criminal proceeding against him is based on certain untenable allegations which are set at naught in view of the report dated 18.4.2023 submitted in Court today. Instead, petitioner's activities are found to be permissible within the four corners of law, he having already complied with the statutory formalities. Thus, this Court finds that no case has actually been made out against the petitioner, in the said FIR dated 24.3.2013.

In view of the fact, it is found that proceedings against the

present petitioner in a Court of law shall be an abuse of process of the same which is not to be maintainable and to be prevented by this Court, in exercise of power under Section 482 of the Code of Criminal Procedure.

Hence, the criminal proceeding against the present petitioner being G.R. Case no. 490 of 2013 arising out of Balagarh Police Station Case No. 65 of 2013 under Section 4D of the West Bengal Land Reforms Act, 1955, now pending in the Court of Judicial Magistrate, 3rd Court, Chinsurah, Hooghly is quashed and set aside.

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

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

(Rai Chattopadhyay, J.)