

06.02.2023
Item No. 12
BR

CRR 872 of 2011

In the matter of: Amit Kumar Ghosh

..... petitioner

Mr. N.P. Agarwal,
Mr. P. Bose

.... for the State

None is appearing on behalf of the petitioner. The criminal revision is pending since 2011.

Under such circumstances instead of adjourning the matter further, I am inclined to dispose it on merit based on materials available with the record.

Briefly stated, opposite party no. 2 filed a petition of complaint against the petitioner before the learned Chief Judicial Magistrate, Howrah and it was registered as complaint case no. 872C/2006. Learned trial Court after compliance of Section 200 of Cr.P.C. was pleased to issue process under Section 204 of Cr.P.C. against the accused persons, having found prima facie ingredient of offence within the meaning of Section 420 of the Indian Penal Code. The accused persons surrendered to the jurisdiction of learned trial Court being the 6th Court of Judicial Magistrate, Howrah. It is contended by the petitioner that an agreement was executed between the petitioner and five other persons on one side and the opposite party no. 2 and other legal heirs of her predecessor-in-interest on the other. In terms of the agreement the petitioner and his

partners were entrusted with the work of development of property. The opposite party no. 2 and other legal heirs of Khetra Mohan De executed the power of attorney in favour of the developers. The agreement was acted upon. Property was developed and the owners of the property received their shares in the property as well as cash money as agreed upon. Subsequently, the opposite party has filed a suit before the civil Court being Title Suit No. 127 of 2006 before the learned 3rd Court of Civil Judge (Junior Division), Howrah seeking declaration as to their entitlement, power of attorney executed by them to be declared void and not binding upon the plaintiffs. Declaration that sale deed in favour of defendant no. 6 is void and declaration of right, title and interest of the plaintiffs over the property in suit.

Subsequent thereto the criminal proceeding has been initiated. Upon perusal of materials on record, I find that the genesis of dispute is the agreement executed by and between the owners of the property and the developers. This is absolutely a civil dispute. The opposite party no. 2 is one of the signatories of general power of attorney which was registered before the competent authority and they received a sum of Rs. 1 lac pursuant to execution of such power of attorney. It is palpably clear that a civil dispute has been imbibed with the colour of criminality, which amounts to abuse of process of law. Accordingly, I am of the view that complaint case pending

before the learned 6th Court of Judicial Magistrate, Howrah being 872C/2006 should be quashed which I accordingly do.

With this observation the criminal revision is disposed of. Order of stay, if any, stands vacated.

Copy of this order be sent down to the learned trial Court for information and necessary action.

Urgent certified copy, if applied therefore, be supplied upon compliance of usual formalities.

(Siddhartha Roy Chowdhury, J.)