

20.02.2023

Item No.13
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 745 of 2021

**M. Husain @ Muslim Hossain @ Md. Muslim
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973.

Mr. Madhusudan Sur,
Mr. Manoranjan Mahata ... For the State.

Ms. Sreyashee Biswas,
Mr. Goutam Dinda,
Mr. Anindya Sundar Chatterjee ... For the K.M.C.

The subject-matter of the present case relates to challenging the proceedings arising out of Entally Police Station Case No. 165 of 2016 dated 08.04.2016 under Section 401A of the Kolkata Municipal Corporation Act, 1980 and all orders passed therein.

Ms. Biswas, learned advocate for the KMC was earlier directed to submit a report as the contention in the revisional application is that another case being Entally Police Station Case No. 67 of 2016 dated 09.02.2016 was earlier registered and trial of the case after being concluded ended in conviction under separate Section and a fine was imposed by the learned Senior Municipal Magistrate, Calcutta with a default sentence. The contention of the petitioner in the revisional application is that the second case being Entally Police Station Case No. 165 of 2016 dated 08.04.2016 is covered by the test of sameness.

Report dated 17.02.2023 submitted by Ms. Biswas, learned advocate for the KMC be kept with the record.

The said report reflects that the first case being Entally Police Station Case No. 67 of 2016 dated 09.02.2016 was for illegal construction of the 6th storey of the building being 76, Dr. Suresh Sarkar Road, Ward No. 55, Borough-VI and the second case being Entally Police Station Case No. 165 of 2016 dated 08.04.2016 was for illegal construction of the 7th storey of the same building. The facts of the case being different in both the FIRs, they are not covered by the test of sameness and as such, the finding arrived at by the learned trial court so far as the first case is concerned being Entally Police Station Case No. 67 of 2016 dated 09.02.2016 has no bearing on the present case being Entally Police Station Case No. 165 of 2016 dated 08.04.2016. Thus, no interference is called for.

Accordingly, the revisional application being CRR 745 of 2021 is dismissed.

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

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)