

24.11.2023
Sl.No. 29
Ct. 32
Amalranjan

CRR 770 of 2017

Sri Subrata Chatterjee
Vs.
Ajay Kumar Paul and ors.

No one appears on behalf of either of the parties.

This revisional application is pending since 2017.

The petitioner has filed this application under Section 397 read with Section 401 of the Criminal Procedure Code, 1973 assailing the impugned order dated 07.01.2017 passed in C Case no. 1489 of 2016 by the learned Judicial Magistrate, Baruipur, South 24 Parganas thereby dismissed the complaint case of the complainant under Sections 323, 448, 506, 509 and 34 of the IPC.

The contention of the petitioner in the instant application is that the learned Magistrate illegally dismissed the case without considering the materials available in the case record of the petitioner. However, no one represented for the petitioner even on the earlier occasions.

Accordingly, this case is required to be disposed of on merit as the petitioner challenges with regard to the correctness legality and propriety of the impugned order.

It is the specific case of the petitioner that he purchased a private car after borrowing loan from the bank. The said car was subject to hire purchase agreement. However, even if, default of payment of EMI made, recovery process has to be made in accordance with law, but not by using any force.

The opposite parties have used force to collect installments by way of threat and assault. Opposite parties have taken possession of the car without following the due process of law.

Accordingly, the petitioner had filed the complaint case before the learned Magistrate. However, the learned Magistrate did not consider the evidence of father and wife of the petitioner and dismiss the complaint case without following the actual procedure is a clear violation and abuse of process of law, which is liable to be set aside.

Upon perusal of the records as well as the impugned order, this court do not find any illegality in dismissing the said complaint case, as no sufficient evidence or grounds found by the court below for taking cognizance. This court also not satisfied with the contention of the petitioner to interfere with the impugned order.

Accordingly, the instant revisional application being **CRR 770 of 2017** is dismissed on the ground of devoid of merit.

Interim order, if any, stands vacated.

Department is directed to communicate this order to the learned trial court immediately for information.

Liberty is granted to all parties to act in terms of the copy of this order downloaded from the official website of this court.

Urgent certified photo copy of this order, if applied for, be given to learned advocates for the parties upon compliance of all requisite formalities.

(Ajay Kumar Gupta, J.)