

07.02.2023

Court No.236  
Item No. 25

D.Hira

**CRR 946 of 2011**  
**With**  
**CRAN 1 of 2012 (Old No. CRAN 742 of 2012)**

**Ashoke Kumar Sasmal**  
**Vs.**  
**The State of West Bengal & Anr.**

Mr. Narayan Prasad Agarwala,  
Mr. Pratick Bose.

... for the State

None is appearing on behalf of the petitioner. This criminal revisional application is pending more than eleven (11) years.

Under such circumstances, I do not find any reason to adjourn this matter *suo motu*. Instead, I am inclined to dispose of the application on merit based on materials made available with the record.

This application under Section 482 of the Code of Criminal Procedure filed by the petitioner challenges the maintainability of G.R. Case No. 388 of 2010 arising out of Dholahat P.S. Case No. 93 of 2010 dated 20<sup>th</sup> April, 2010 under Sections 406/409/420/506 of the Indian Penal Code.

Briefly stated, the petitioner is the Headmaster of Mrinalnagar Rakhal Vidyamandir. Previously, the petitioner was not allowed to assume the charge of Headmaster of the Institution by the then Managing Committee. After the term of the said Managing Committee came to an end, the petitioner could assume the charge and his service as Headmaster had been approved vide Memo No. 69/APPTT dated 12<sup>th</sup> May, 2006 with effect from 2<sup>nd</sup> July, 2003.

It is further contended that after receiving the charge of the institution, he requested the erstwhile Managing Committee to submit accounts but it was not adhered to. In course of audit enquiry, it was found that considerable amount of money was misappropriated. With due permission, the Headmaster lodged a complaint against previous Managing Committee and after investigation, charge-sheet no. 159 dated 30<sup>th</sup> November, 2007 was submitted by police.

It is further contended that Prasanta Kumar Maity claiming himself as the President of the Managing Committee on 6<sup>th</sup> February, 2010 took out petition before the learned Sub-Divisional Judicial Magistrate, Kakdwip, South 24 Parganas and the said petition of complaint was forwarded to the jurisdictional police station under Section 156(3) of the Code of Criminal Procedure. Accordingly, Dholahat P.S. Case No. 93 of 2010 dated 20<sup>th</sup> April, 2010 was registered under Section 405/406/409/420 of the Indian Penal Code.

According to the petitioner, the said case was registered as a counter-blast to the case investigated by the police and after investigation charge-sheet was filed. However, police after investigation of Dholahat P.S. Case No. 9 of 2011 dated 20<sup>th</sup> January, 2011 submitted charge-sheet being charge-sheet no. 160(1), having found *prima facie* case under Section 406/409 and 420 of the Indian Penal Code.

According to the petitioner, the complainant Prasanta Kumar Maity since has been implicated in a case at the instance of the petitioner where charge-sheet no. 159 was filed on 30<sup>th</sup> November, 2007, subsequent proceeding is attended with *mala fide* and should be quashed.

The petitioner also challenges the *locus standi* of the opposite party no. 2 to initiate a proceeding being an Ex-President of this school. An offence is committed not only against an individual, society also suffers because of a crime committed against an individual. Therefore, question of *locus standi* is of no importance. Being a member of the society, Prasanta Kumar Maity, the opposite party no. 2, has every right to initiate criminal action.

No doubt this is a counter case but after investigation since police has submitted charge-sheet there is every reason to presume that *prima facie* evidence is there to justify the allegations. Therefore, I do not consider it a fit case to invoke the provisions of Section 482 of the Code of Criminal Procedure.

Criminal revision merits no consideration and dismissed, however, without costs.

Interim order, if any, stands vacated.

Let a copy of the judgment be sent down to the learned Trial Court for information and necessary action.

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.

**(Siddhartha Roy Chowdhury, J.)**