

31.01.2023
28
Rup Ct. No. 236

CRR 969 of 2011

In the matter of:- **Sri Gour Chandra Roy & Anr** ...petitioners

Mr. N.P. Agarwala,
Mr. P Bose.

... For the State.

None is found present on behalf of the petitioners. This criminal revisional application has been pending since 2011. Therefore, I propose to dispose of the application, based on the materials available with the record.

This application under Section 482 of the Code of Criminal Procedure is manifestation of displeasure of the petitioners over the registration of Titagarh Police Station Case No. 106 dated 09.06.2010 culminated in the G.R. No. 591 of 2010 which is pending before the learned Additional Chief Judicial Magistrate, Barrackpore under Sections 427/451/454/457/120B/34 of Indian Penal Code.

Upon perusal of materials, I find that Hassan Reza Ansari, opposite party no.2 has filed an application under Section 156(3) of the Cr.P.C against Alope Sarkar, Gour Chandra Roy and Swapan Roy contending, inter alia, that the complainant is co-owner of property situated at Roy Bagan, under Mouza Titagar comprising with Dag No. 2172 & 2173 under Khatian No. 1295 within the municipal limit of Barrackpore Municipality having an area of more or less 57 sataks. On 28th of January, 2009, the

accused persons together with some anti-social elements came to the said property by breaking open the main door, demolished the building, and committed theft in respect of various articles over there. Police was informed but instead of registering FIR, police recorded GD Entry No. 2286 dated 28th January, 2009 and 2456 dated 30th January, 2009. Learned ACJM, Barrackpore was pleased to invoke the provision of Section 156(3) Cr. P.C and forwarded the petition of complaint to the concerned police station, which gave birth to Titagarh Police State Case No. 106 dated 9th march, 2010. Police took up investigation which culminated into submission of charge-sheet.

Challenging the proceeding the accused persons filed the application under consideration depicting themselves as the joint owner of the property in question, which they have acquired by inheritance from their predecessor-in-interest and by way of partition passed in Administration Suit No. 201 of 1997. The complainant of the criminal case with *mala fide* intention used the authority of police to sub-serve their purpose. The police authorities in course of investigation did not make any attempt to collect the documents in support of the ownership of the petitioners, who have been arrayed as accused person in the criminal proceeding.

Learned Trial Court also failed to appreciate that a civil dispute has practically been imbued with the colour of criminality. From the documents annexed to the petition, I find that the petitioners, *prima facie* appear to have right, title and interest over the property involved in this litigation. This practice of deciding a

civil dispute by setting in motion the criminal administration of justice has consistently been deprecated. This case is another example, where civil dispute has been brought to the arena of criminal administration of justice, and the same should not allowed to remain enforce.

In my humble opinion, Titagarh Police Station Case No. 106 dated 09.06.2010 that culminated in the G.R. No. 591 of 2010 is the manifestation of abuse of process of law. I am inclined to quash the proceeding, qua the petitioners which is pending before the learned ACJM Barrackpore under Sections 427/451/454/457/120B/34 of Indian Penal Code.

Thus the criminal revisional application disposed of.

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

Urgent certified copy of this order, if applied for, be given to the appearing parties as expeditiously as possible upon compliance with the all necessary formalities.

(Siddhartha Roy Chowdhury, J.)