

CRR 979 of 2011
CRAN 1 of 2015

In the matter of : Sujit Ghosh @ Chanu & Anr.

Mr. N. P. Agarwala
Mr. P. Bose ... for the State

As usual none is appearing on behalf of the petitioners.

Instead of adjourning the matter *suo moto*, considering the age of the proceeding, I am inclined to dispose of the matter on merit based on materials available with the record.

This petition challenges the proceeding being complaint case no. C-1283 of 2001 filed by the Smt. Milan Adhikari against M/s. Ghosh Associates alleging *inter alia* that the accused persons entered into an agreement with the husband of the complainant Harisadhan Adhikari, since deceased on 18th March, 2000 wherein they agreed to construct a multistoried building upon the land of the complainant and to give them two flats, two shop rooms and one garage. But they delivered only one flat and two shop rooms violating the terms of the agreement. It is contended that the husband of the complainant, since deceased, was induced to enter into an agreement and thus duped.

Learned Chief Judicial Magistrate, Barasat at North 24 Parganas (North) after taking cognizance transferred the case to the learned Judicial Magistrate, 1st Court, Barasat, North 24 Parganas and the learned Trial Court was pleased to issue process under Sections 406/420/120B of the Indian Penal Code

against the accused persons. The accused persons surrendered to the jurisdiction of the learned Trial Court on 08.04.2002. On 08.04.2002 Dulal Adhikari was examined as P.W. 1 in part. Since then no witness was examined. The accused persons challenged the proceeding on the ground of enormous delay and preferred this application under consideration.

Upon perusal of the record, I find that on 23.3.2011, learned Judicial Magistrate, 1st Court, Barasat, North 24 Parganas was pleased to fix evidence before charge.

It is contended by the petitioners that inordinate delay in completion of trial caused serious prejudice to the accused persons and the proceeding should be quashed on that ground.

Upon perusal of complaint itself, I find that germane of the case is an agreement and breach thereof, committed by one of the parties. A cruel desperate painted with colour of criminality.

Under such circumstances, when the civil dispute has been imbued with criminality, I am inclined to invoke the provision of Section 482 of the Code of Criminal Procedure to quash the proceeding.

With this observation, the criminal revision is disposed of along with application, if any.

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

(Siddhartha Roy Chowdhury, J.)