

Court No. 236

16.02.2023

(AD 24)

(S. Banerjee)

CRR 1084 of 2011

Debasish Maity & Ors.

Versus

State of West Bengal & Anr.

Mr. Ayan Bhattacharya

Mr. Prattay Khan

Mr. Somdev Ash

Mr. Suman Majumder

... for the petitioners

Mr. B. K. Roy

Ms. Sima Biswas

... for the State

Upon perusal of office report I find that opposite party no. 2, Tushar Kanti Das expired on 11th June, 2021. The petitioner no. 4, Tanmoy Maity died on 19th December, 2020. The petitioner no. 6 Subodh Kumar Maity passed away on 3rd October, 2018.

The department is directed to amend the cause-title taking into consideration the factum as aforesaid.

This revisional application challenges the proceeding being Golabari Police Station Case No. 220 of 2008 dated 14th August, 2008 corresponding to GR No. 2352 of 2008.

Mr. Pratyay Khan, learned counsel for the petitioners, submits that the opposite party no. 2 issued a cheque in discharge of his liability to pay a

sum of Rs. 60,000/- to the petitioner no. 4, Tanmay Maity and a criminal proceeding was initiated consequent upon dishonour of cheque by the banker of the drawer of the cheque. In the said proceeding initiated under Section 138 of the Negotiable Instrument Act, the opposite party no. 2 was found guilty and an order of conviction was recorded against him. The opposite party no. 2 as a counter-blast started lodging complaint cases one after another against the petitioners. Initially complaint case no. 61C of 2006 was filed and on 28th November, 2008 the said complaint case was dismissed. On 10th May, 2006 another complaint case, being 464C of 2006 was registered at the behest of Tushar Kanti Das, the opposite party no. 2, and the same was dismissed under Section 245(2) of the Code of Criminal Procedure by the learned trial court on 5th December, 2009. The petitioners thereafter filed a civil suit claiming damage for malicious prosecution against opposite party no. 2 registered as Title Suit NO. 4 of 2009. In the meantime at the behest of the opposite party no. 2, Golabari Police Station case no. 220 of 2008 was registered against the petitioners.

I have perused the materials made available with the record and there is every reason to infer from the attending facts that proceeding, being GR case no. 2351 of 2008 corresponding to Golabari Police Station

case no. 220 of 2008 dated 14th August, 2008 is attended with mala fide.

Under such circumstances I feel no hesitation to invoke the provision of Section 482 of the Code of Criminal Procedure to quash the proceeding, being GR case no. 2351 of 2008 corresponding to Golabari Police Station case no. 220 of 2008 dated 14th August, 2008.

The criminal revision is thus disposed of along with the applications, if any.

Copy of the order be sent down to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)