

21.12.2023

Sl.No. 14

Ct. 32

P.A.

CRR 911 of 2017

Raj Kishore Modi & Anr.

Vs.

State of West Bengal and Ors.

Ms. Ruby Mukherjee,
.....for the petitioners

Mr. Biswajit Manna,
Mr. Somnath Roy
Mr. Prashant Kumar Singhal
.....for the Opposite Party No. 2

Ms. Anasuya Sinha
Mr. Pinak Kr. Mitra
.....for the State

Petitioners being the accused persons filed this application under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of First Information Report being Rajarhat P.S. Case No. 49/2017 dated 25.02.2017 under Sections 406/420 read with Section 120B of the Indian Penal Code, 1860 presently pending before the Learned Chief Judicial Magistrate at Barasat.

It is submitted on behalf of the petitioners that the parties have settled their disputes amicably out of Court and opposite party no. 2 has already received a sum of Rs. 24, 64,053/- by way of Online Bank Transfer (RTGS) from Greentech IT City Pvt. Ltd. and Rs. 13, 30,507/- as interest

by way of cheque as full and final settlement and after receiving the said amount, the de-facto complainant has no any claim or allegation against the present petitioners. The said letter was also communicated to the Inspector-in-Charge, Rajarhat Police Station, Rajarhat.

Report submitted by the State is also indicates the same about the settlement.

The allegation of the de-facto complainant was that the Greentech IT City Pvt. Ltd. had received a booking amount of a flat in Vedic Village. But later discovered no development work found at the scheduled land. At the same time, the authority of Greentech IT City Pvt. Ltd. and India bulls Distributions Services Ltd. refused to return the booking amount. As such a case was registered under Sections 406/420/120B IPC against Raj Kishore Modi Director of Greentech IT City Pvt. Ltd. and Uday Modi, Director of India bulls Distributions Services Ltd. and Others. The said FIR was challenged before this Court by way of this revisional application. It is contended that this is a case of civil nature.

Furthermore, the petitioners have complied with 41A notice issued by the Police authority to cooperate with the investigation since they did not commit any offences as alleged.

In the meantime, the matter has been settled between the parties by entering into an agreement in the form of an

affidavit dated 10th March, 2017. The entire amount including interest has been paid to the de-facto complainant and the fact of the settlement was also communicated to the higher authorities of the police as well as Officer-in-Charge of Rajarhat Police Station by the de-facto complainant. Furthermore, Learned counsels for the Petitioners and opposite party No.2 also concedes the said facts and submitted that further continuation of the proceeding is nothing but abuse of process of law.

In view of the above facts and circumstances, the proceeding being the FIR being Rajarhat P.S. Case No. 49/2017 dated 25.02.2017 under Sections 406/420 read with Section 120B of the Indian Penal Code, 1860 should not be continued because dispute is private in nature and the parties have now resolved their entire dispute by way of a compromise/settlement. As such the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused persons to great oppression and prejudice and extreme injustice could be caused to them by not quashing the criminal case despite full and complete settlement and compromise with the complainant as such it may be quashed after exercising power under Section 482 of the Code of Criminal Procedure, 1973.

Accordingly, I am inclined to exercise power under Section 482 of the Code of Criminal Procedure and proceeding being Rajarhat P.S. Case No. 49/2017 dated

25.02.2017 under Sections 406/420 read with Section 120B of the Indian Penal Code, 1860 now pending before the Ld. Chief Judicial Magistrate is hereby quashed.

Interim order, if any, is also vacated.

CRR 911 of 2017 is, thus, disposed of.

Let a copy of this order be sent to the Learned Court Below for information.

All parties are to act in terms of the copy of this order duly downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties as expeditiously as possible taking all legal formalities.

(Ajay Kumar Gupta, J.)