

D/L4
03.08.2023
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C.R.R.1451 of 2022

In Re: An application under Section 482 of the Code of Criminal
Procedure read with Section 397/401 of the Code of Criminal Procedure;

Rina Biswas and others
Versus
State of West Bengal and another

Mr. Apalak Basu
Mr. Nazir Ahmed
Ms. S. Seth
Ms. S. Mridha.
...for the petitioners.

Mr. Sudip Ghosh
Mr. Bitasok Banerjee.
...for the State.

Petitioners have challenged the continuance of PR no.614 of 2021 arising out of Dumdum Police Station GDE no.1748 of 2021 and 1777 of 2021 under Section 107 of the Code of Criminal Procedure which was pending before the learned Special Executive Magistrate, Barrackpore Police Commissionerate, North 24 Paganas including the order dated 06.01.2022.

In the order dated 06.01.2022 the learned Magistrate was pleased to issue show cause under Section 111 of Code of Criminal Procedure as to why a proceeding under Section 107 of the Code of Criminal Procedure shall not be drawn up and made absolute against the petitioners.

Section 111 of the Code of Criminal Procedure specifically provides that show cause which is to be issued with reference to the said Section shall contain an order in writing

setting forth the substance of the information received. So far as the show cause notice which has been issued, the substance of the information is completely lacking in the instant case. What has been quoted is with reference to the receipt of a police report.

Having considered the manner in which the order dated 06.01.2022 has been passed, I am of the firm view that the same is in gross ignorance of Section 111 of the Code of Criminal Procedure and accordingly the same is set aside.

So far as the continuance of the proceedings which was initiated in the year 2021 and wherein the spirit of the legislature is that the same should be continued for a limited period and only under special circumstances the same can be extended, I am of the view that so far as the present proceedings and the nature of the dispute which have been referred to in the application is exclusively private and personal dispute without any element of public involvement.

Having regard to the same, I am inclined to quash the proceedings arising out of PR no.614 of 2021 arising out of Dumdum Police Station GDE no.1748 of 2021 and 1777 of 2021 under Section 107 of the Code of Criminal Procedure which was pending before the learned Special Executive Magistrate, Barrackpore Police Commissionerate, North 24 Paganas including the order dated 06.01.2022.

However, the police authorities if they feel that subsequently there are breach of peace which may flare up, the police authorities would be at liberty to initiate fresh proceedings.

With the aforesaid observations, CRR 1451 of 2022 is allowed.

Pending application, if any, is consequently disposed of.

All parties shall act on the server 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 upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)