

04.12.23	In the matter of : Md. Badruddin	
Sl-54		... petitioner.
Ct.33		
(S.R.)	Ms. Faria Hossain	
	Mr. Anand Keshari	... for the State.

The instant revisional application has been filed for quashing of the proceeding of Ratua Police Station Case No.56 of 2011 dated 27th February, 2011 under Section 4D of the West Bengal Land Reforms Act read with Sections 435/278/427 of the Indian Penal Code.

The complaint was lodged by one Aliullah Sarkar, Block Land and Land Reforms Officer, Ratua – I, duly authorised by the District Land and Land Reforms Officer and Additional District Magistrate, Malda, who had reported the present petitioner to have altered the area, character and mode of use of the land comprising an area of 0.33 acre in Plot No.353, 354 of Mouza Khanpur, J.L. No.102 within the jurisdiction of Ratua Police Station unauthorisedly without obtaining any prior permission from the Collector and in violation of the provisions of

Section 4C of the West Bengal Land Reforms Act. The complainant prayed for necessary action to be taken against the petitioner.

The petitioner, *inter alia*, contended to be innocent and to have acted in accordance with the provisions of law and the authority had accepted the amount of cess and receipt of such cess had been issued to the petitioner on 23rd February, 2011 as “Earth Price”. It was surprising that the complaint was lodged against the petitioner on 27th February, 2011 despite the acceptance of cess on 23rd February, 2011 accusing him to violate the provisions of Section 4C of the West Bengal Land Reforms Act. It was further contended by the petitioner that the concerned authority did accept the cess for the year 2010, however, did not raise any objection against the petitioner and the present complaint was at the instance of rival political group. There was no deliberate attempt on the part of the petitioner to alter or convert the nature and character of the land in question for any purpose to attribute the initiation of a criminal proceeding against a Rayat having legitimate right over the property. Moreover, if there had been any illegal conversion of the land, the authority concerned should not have accepted the any cess over the

said land. Once this amount of cess was accepted, the conversion as implied if at all, cannot be sustainable. The complaint was lodged for with oblique motive to harass the petitioner and the same should be quashed.

The learned advocate for the State produced the case diary wherefrom it revealed that the statements of five witnesses had been recorded under Sections 161 of the Criminal Procedure Code and certain documents along with two numbers of spade and five numbers of basket were seized. It was further mentioned by the officer-in-charge of Ratua Police Station in his forwarding report that the petitioner was digging the land by changing the nature and character of the same and using fire to prepare bricks without any permission from the appropriate authority and causing mischief to the mango fruits or mango orchard situated nearby. Such an act agitated the neighbors to complain mischief and nuisance being caused along with environmental pollution. Apparently, the petitioner was not given an opportunity of hearing to establish his ownership over the disputed land in question. Apart from oral submissions as well as lack of documentary evidence to prove that the petitioner had been involved in changing the nature, character and use

of land, as alleged, will not be possible. Considerable time has passed by and to allow to continue with the trial will result in process of abusive of law, since the CD has not been reflecting any conceivable offence as per the allegations ventilated.

Under such circumstances, the instant revisional application is allowed and the aforesaid Ratua Police Station Case No.56 of 2011 is quashed.

(Ananya Bandyopadhyay, J.)