

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)
Appellate Side

Present:

Justice Bibhas Ranjan De

C.R.R. 1128 of 2015

Sri Arideep Saha

Vs.

The State of West Bengal & Anr.

For the Petitioners :Ms. Bhaswati Chaudhuri, Adv.

For the State :Mr. Bidyut Kr. Roy, Adv.
Ms. Rita Dutta, Adv.

Heard on :09.06.2023,18.07.2023, 09.08.2023,
24.08.2023, 12.09.2023, 21.09.2023

Judgment on : 29th September, 2023

Bibhas Ranjan De, J.

1. By this revision application prayer was made for quashment of proceedings in connection with Panchla Police Station Case No. 184 of 2012 dated 08.11.2012 under Section

420/406/468/471/472/120B of the Indian Penal Code (for short IPC) corresponding to G.R. No. 7499 of 2012.

2. On 08.11.2012 at 11.15 hours Panchla Police Station received a complaint under Section 156(3) of the Code of Criminal Procedure (for short CrPC) filed by one Sri Nemai Chandra Sadhukhan (OP2 herein), Director of M/s. Surendra Enclaves Private Limited having office at village + Post Office-Bikihakola, PS-Panchla, Howrah before the Learned Court of Chief Judicial Magistrate, Howrah Sadar, alleging, *inter alia*, that the petitioners conspired and enticed the defacto complainant, opposite party No. 2 (for short OP2) to purchase a land having JL No. 15, Touzi No. 351, Mouja Rasapunja under Police Station Bishnupur, District South 24 Parganas, Dag No. 1986, Khatian number 243, measuring 26 decimals, Dag No. 1085, Khatian No. 160, measuring 25 decimals, (total measuring being 1 Acre 97 decimals) at a total consideration of Rs. 1,58,00,000/- .

3. Accordingly, an agreement for sale was executed on 12.09.2008 at Bikihakola and an amount of Rs. 67,70,000/- was paid to the owner. Later on he paid more amounting to total of Rs. 1,08,70,000/-. But, till date the FIR named persons neither executed any deed of sale nor returned the

money paid to them in connection with the aforementioned purchase.

- 4.** From the record it appears that in spite of service of notice none appears to represent the opposite party no. 2. However I heard Ld. Advocate, Ms. Bhaswati Chaudhuri, appearing on behalf of the petitioners and Ld. Advocate, Mr. Bidyut Kr. Roy on behalf of the State. Ld. Advocate appearing on behalf of the petitioner has tried to make this Court understand that the dispute regarding breach of agreement for sale attract only the civil liability and such dispute cannot be taken to any criminal forum. Ld. Advocate appearing on behalf of the State has relied on the materials in the case diary. Mr. Roy submitted that the dispute arose between the parties for not registering the remaining portion of the land agreed for sale.
- 5.** According to agreement for sale by and between the parties, the petitioners were to register the deed in respect of 1.97 Acres of land in favour of opposite party no. 2/ company at a consideration of an amount of Rs. 1,58,00,000/-. Subsequently, a deed of conveyance was executed by the petitioners in favour of the opposite party no. 2 in respect of 100 decimals of land at a consideration of Rs. 20,05,560/-.

- 6.** Now it is not intelligible that how the consideration money to the tune of Rs. 20.05,560/- can be assessed for the land measuring one(1) Acre while there was an agreement for sale of 1.97 acres of land at a consideration of Rs. 1,58,00,000/-. That apart, sale of 1 acre of land at a consideration amount of Rs. 20.05,560/- was further ratified by Director of the Company (opposite party no. 2) in course of recording his statement under Section 161 of the CrPC. However, by no stretch of imagination, I can assume that opposite party no. 2 paid rest amount of Rs. 88,64,440/- for the remaining land measuring 97 decimals only.
- 7.** Be that as it may, the dispute as it appears from the application under Section 156(3) for CrPC relates to breach of agreement for sale which is purely civil in nature. It is settled principle laid down by the Hon'ble Apex Court in several decision that mere breach of contract cannot give rise to criminal prosecution for cheating, leaving no scope for criminal liability.
- 8.** In aforesaid view of the matter the proceeding is liable to be quashed.
- 9.** The revision application being no. 1128 of 2015 stands allowed. The proceedings in connection with Panchla Police

Station Case No. 184 of 2012 dated 08.11.2012 under Section 420/406/468/471/472/120B of the Indian Penal Code (for short IPC) corresponding to G.R. No. 7499 of 2012, stands quashed.

- 10.** C.R.R. 1128 of 2015 stands allowed.
- 11.** Interim order, if there be any, stands vacated and all pending applications, if any, stand disposed of accordingly.
- 12.** Case diary be returned.
- 13.** All parties to this revisional application shall act on the server copy of this order downloaded from the official website of this Court.
- 14.** Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[BIBHAS RANJAN DE, J.]