

01-03-2023
Subha
Item no. 20
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 1494 of 2021

Subhasis Batabyal & Anr.
-versus-
The State of West Bengal & Anr.

Mr. Milon Mukherjee, Sr. Advocate
Mr. Biswajit Manna
...for the petitioners.

Mr. Madhusudan Sur, Id. APP,
Mr. Dipankar Paramanick
.....for the State.

Mr. Sumanta Ganguly
Mr. Pranab Palit
...for the O. P. No.2.

The present revisional application was filed challenging the proceedings arising out of Tarakeswar P. S. Case No. 65 of 2000 dated 20.06.2020 which was registered for investigation under Sections 420/406/506 of the Indian Penal Code.

The police authorities on conclusion of investigation submitted chargesheet under Sections 420/406/506/34 of the Indian Penal Code. The police authorities in order to prove its case relied upon 13 witnesses which included the complainant, Rama Batabyal. It is also an admitted fact that civil suit is pending between the parties relating to the same set of properties which are in dispute before this court. The Investigating Agency at the time of investigation or during the time of investigation or as alleged did not find any forged signature of the complainant.

The grievance of the lady/complainant is that she has been misled to sign in respect of the conveyance which was in favour of the minor son of the petitioners. Her further allegation is that other two sons have been deprived.

I have considered the submissions advanced by Mr. Mukherjee, learned senior advocate appearing for the petitioners, Mr. Sumanta Ganguly, learned advocate appearing for the private opposite party and that of Mr. Sur, learned advocate appearing for the State.

The pivotal issue in this case is that the complainant being misled, signed the documents in favour of her grand son, who happens to be the child of the present petitioners. The word 'misled' in the background of the present case would come within the first part of the definition of Sections 420/415 of the Indian Penal Code. This would lead to the subsequent alleged offences under Sections 406/506/34 of the Indian Penal Code.

As the parties are relations and civil suit is also pending between the parties and the subject matter of the civil suit also relate to the same set of properties which are also subject matter of the case wherein the allegations relate to the signature obtained by misleading the complainant, I am of the view that the finding of the civil suit will have an impact on the initiation of the criminal case. It will not be possible for the criminal court to just jump to the conclusion only on the averments or narration relating to 'mislead', 'deceive', coercive', 'fraudulent' or any other manner by which the complainant had to sign.

Considering the overall circumstances appearing in the case

diary, I am of the view that the continuance of the proceedings at this stage before the criminal court is unwarranted until and unless a civil suit expresses its finding on this issue.

Accordingly, all further proceedings arising out of Tarakeswar P S. Case No. 65 of 2020 dated 20.06.2020 as also the chargesheet filed therein corresponding to G. R. Case No. 532 of 2020 pending before the learned Additional Chief Judicial Magistrate, Chandannagore, Hooghly is hereby quashed. Accordingly, the revisional application being CRR 1494 of 2021 is allowed.

. Pending applications, if any, are consequently disposed of.

The complaint/opposite party and/or any affected party would be at liberty to initiate the criminal proceedings in connection with the dispute relating to the properties only after civil court expresses its findings.

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

[Tirthankar Ghosh, J]

