

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 1649 of 2012

**Nur Hossain Sarkar
-Vs-
The State of West Bengal**

For the Petitioner : Mr. Ujjal Ray
For the State : Mr. Sandip Chakraborty
Heard on : 08.08.2023, 25.09.2023
Judgment on : 15.12.2023

Ananya Bandyopadhyay, J.:-

1. The instant revisional application is filed by the petitioner for quashing of the proceeding being Pandua Police Station Case No. 32/12 dated 17.02.2012 under Section 4D of the West Bengal Land Reforms Act, 1956 (G.R. No. 295/2012) pending in the Court of Learned Chief Judicial Magistrate, Hooghly at Chinsurah.
2. The contentions of the petition are as follows:-
 - i. One Srabani Pal, the Block Land and Land Reforms Officer, Pandua authorized by the District Land and Land Reforms Officer and Additional District Magistrate, Hooghly lodged an F.I.R. before the Pandua Police Station to stating that –

a) The petitioner Nur Hossain Sarkar was attempting to such change in the nature or character of the land comprised of an area of 0.18 acre in plot no. RS 2230, LR 2801 in Mouza – Pandua, J.L. No. 108, P.S. – Pandua, District - Hooghly without the prior permission of the Collector and in violation of Section 4C of the West Bengal Land Reforms Act, 1956.

b) Therefore the said Nur Hossain Sarkar committed an offence under Section 4D of the West Bengal Land Reforms Act, 1956.

3. The said de-facto complainant lodged the FIR before the abovementioned for such aforesaid violation and the Pandua Police Station initiated the aforesaid case accordingly.
4. The petitioner thereafter on apprehension of arrest filed an application before this Hon'ble High Court whereby his prayer for anticipatory bail was allowed.
5. The petitioner submitted that the pond in the said premises belonged to his father Osman Gani Sarkar and the present petitioner never acted contrary to the direction of his father with respect of the said property.
6. Before lodging the complaint case the Block Land and Land Reforms Officer imposed a fine upon the petitioner which the petitioner duly paid on 10.01.2012. Even after the deposition of fine the present case had been lodged against him on 17.02.2012 for which the petitioner was being doubly jeopardized.
7. Certain villagers on previous occasion complained of the aforesaid alleged act of the petitioner. The petitioner restored the pond at his own cost and the said villagers expressed their opinion as pond was already been restored they

withdraw their grievances against the petitioner and the petitioner be discharged from the offence.

8. At the time of hearing the application for anticipatory bail this Hon'ble Court directed the Block Land and Land Reforms Officer, Pandua, Hooghly to submit report about the condition of the pond. The BL&LRO, Pandua, Hooghly duly submitted the report to this Hon'ble Court stating inter alia that the pond has already been restored. Such statement shall be evident from the order of this Hon'ble Court and also from the report submitted by the BL&LRO, Pandua, Hooghly.
9. Learned Advocate for the petitioner submitted that –
 - i. As per the report of the BL&LRO, and the co-villagers the pond has completely been restored at the cost of the petitioner. Hence, pendency of the said proceeding against the petitioner is not maintainable.
 - ii. The B.L.&L.R.O., Pandua, Hooghly imposed a fine upon the petitioner which the petitioner duly paid on 10.01.2012. After the deposition of such fine the present case instituted against him on 17.02.2012 could not be sustained.
 - iii. If the present proceeding exists against the petitioner even after admitted position of payment of fine and restoration of the pond of his own cost, the petitioner shall be doubly jeopardized.
 - iv. The impugned proceeding is misconceived unwarranted and otherwise bad in law and is liable to be quashed.

10. Section 4D of the West Bengal Land Reforms Act, 1955 stated as follows:

“4D. Offence and penalties.—(1) Any change, conversion or alteration in the area, character or mode of use of any land, except in accordance with the provisions of section 4C, or any violation of the order of the Collector under sub-section (5) of section 4C, [shall be a cognisable and non-bailable offence and shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to fifty thousand rupees or with both:

Provided that no prosecution shall lie for an offence under this sub-section in a case where an action has already been taken by the prescribed authority under sub-section (4) of section 4:

Provided further that no prosecution shall lie for any diminution in area or change of character of any land or any conversion in the use of any land if such diminution or change of character or conversion was made in accordance with the provisions of any law for the time being in force:

(2) No court shall take cognizance of any offence punishable under sub-section-(1) except on a complaint in writing made by the Collector or by an officer authorized by him in that behalf.”

11. In view of the first proviso to Section 4D of West Bengal Land Reforms Act, 1956, the B.L.&L.R.O, Hooghly imposed a fine upon the petitioner which was paid by the petitioner on 10.01.2012. Therefore no prosecution shall lie against the petitioner since an action had already been taken by the aforesaid

prescribed authority having imposed fine to be paid by the petitioner who had already complied with the same.

12. In view of the above discussions, the impugned proceeding being Pandua Police Station Case No. 32/12 dated 17.02.2012 under Section 4D of the West Bengal Land Reforms Act, 1956 (G.R. No. 295/2012) pending in the Court of Learned Chief Judicial Magistrate, Hooghly at Chinsurah is quashed.
13. Under such circumstances, the instant criminal revisional application being No. 1649 of 2012 is allowed.
14. Accordingly, CRR 1649 of 2012 stand disposed of.
15. There is no order as to cost.
16. Lower court records along with a copy of this judgment be sent down at once to the Learned Trial Court for necessary action.
17. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)