

IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

Present: - Hon'ble Mr. Justice Subhendu Samanta.

C.R.R. No. - 1487 of 2017

With

IA No. CRAN 3 of 2017(Old No. CRAN 5413 of 2017)

IN THE MATTER OF

Anwar Ali & Anr.

Vs.

The State of West Bengal & Anr.

For the petitioner : Mr. Tauhid Khan, Adv.,
Ms. Marufa Mondal, Adv.

For the State : Mr. Narayan Prasad Agarwal, Adv.,
Mr. Pratick Bose, Adv.

Judgment on : **18.01.2023**

Subhendu Samanta, J.

This is an application u/s 401 read with section 482 of the Code of Criminal Procedure for quashing of a criminal proceeding being No. CNS/91352/2016 pending before the Learned Metropolitan Magistrate 18th Court Calcutta u/s 120B/420/177 of the IPC.

The brief fact of the case is that the present opposite party No. 2 filed a petition of complaint with the Learned ACJM (ii) Calcutta against the present petitioners and two others contending inter alia that the present petitioner No. 1 being the Head Master of M.L. Jubilee Institution has

forwarded the pension paper of petitioner No. 2 who was a retired assistant teacher of the said school suppressing the fact of previous pending criminal case against petitioner No. 2. Learned Court after receiving the complaint examined the complainant u/s 200 Cr.P.C. and issued process against the accused persons.

Hence this revision.

Learned Advocate for the petitioner submits that during the continuation of this revisional application the petitioner No. 2 died and the revision has been abated against him. Petitioner No. 1 being the Head Master has only forwarded the pension paper to the concerned authority. He further pointed out the pendency of criminal case against the teacher cannot debarred him for receiving pensionary benefit. He further submitted before this court being the Head of the Institution the petitioner No. 1 had no liability, but he only forwarded the certificate to the concerned authority. In support of his contention he cited several decisions passed by the some co-ordinate bench of this court wherein the pensionary benefit of the petitioners was allowed instead of pending of criminal proceeding.

Learned Advocate appearing for the petitioner further submits that after the death of the petitioner No. 2 the criminal proceeding cannot be allowed to be proceeded. So he prayed for quashing.

Learned Advocate appearing on behalf of the state raised strong objection and submits that the certificate issued by the present petitioner No. 1 is palpably incorrect and he suppressed the fact that a criminal case is pending against petitioner No. 2 thus, the criminal proceeding pending before the Learned Magistrate cannot be quashed at this stage.

Heard the Learned Advocate perused the materials on record also perused the judgment of some Co-ordinate Bench of this court. It appears from the various judgments of this court passed in WP No. – 28290 (w) of 2015, WP No. –12609 (w) of 2015, WP No. –9890 (w) of 2015, WP No. –14668

(w) of 2012 that this court has considered the issuance of pensionary benefit towards the retired teacher instead of pending criminal proceeding.

The present criminal proceeding is pending against the petitioner for suppressing the true fact before the Government authority for issuance of false "No Liability Certificate". The merit of the cases cited by the Learned Advocate for the petitioner is totally different to that of the present case. The instant criminal proceeding was initiated u/s 120B/420/177 IPC. Prima facie there are materials for proceeding against the petitioner.

At this juncture I find no justification to quash the proceeding pending before the Learned Metropolitan Magistrate. Accordingly, the instant criminal revision is liable to be dismissed as devoid of merit.

CRR is dismissed.

Pending connected CRAN applications if any, is also disposed.

Any order of stay passed by this Court during the continuation of the CRR is also vacated.

Parties to act upon the server copy and urgent certified copy of the judgment be received from the concerned Dept. on usual terms and conditions.

(Subhendu Samanta, J.)