

D/L121
03.07.2023
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C.R.R.2348 of 2023

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973;

Shyamapada Sasmal and others
Versus
The State of West Bengal and another

Mr. Sarbananda Sanyal.
...for the petitioners.

Mr. Avishek Sinha.
...for the State.

Learned advocate appearing for the petitioners has challenged the continuance of the proceedings arising out of Raidighi Police Station Case No.487 of 2018.

I find that the charge-sheet has already been submitted before the jurisdictional court and the same has been filed under Sections 447/323/354/506/34 of the Indian Penal Code. The next date has been fixed for consideration of charges.

Petitioners are directed to serve a copy of the revisional application upon Mr. Avishek Sinha, learned advocate, who ordinarily appears on behalf of the State. His appointment may be regularised by the concerned authorities.

In view of the submissions advanced by the learned advocate for the petitioners that there was a direction by the sub-divisional Magistrate and there is dispute regarding the issue as to who cultivated the land it is emphasized that the facts which have been narrated particularly with regard to the forcibly entering the cultivated land of the complainant is on the face of it bad in law.

I have considered such submissions and also taken into account the nature of the allegations made and the findings of the Investigating Officer in the report under Section 173 of the Code of Criminal Procedure. The allegations do not only restrict to Section 447 of the Indian Penal Code but also Section 354 of the Indian Penal Code.

Having regard to the totality of the circumstances, I am of the view that this is not a fit case for invoking the powers under Section 482 of the Code of Criminal Procedure at this stage when the learned Magistrate is awaiting the stage for consideration of charges. Petitioners are granted liberty to take up the points at the stage of consideration of charges before the learned Magistrate who would independently decide the same without being influenced by any observations made by this Court.

With the aforesaid observations, CRR 2348 of 2023 is disposed of.

Pending application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)