

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 2651 of 2022

**M/s. Gautam Construction Company
Private Limited and Others
Vs.
The State of West Bengal and Ors.**

Mr. Dipankar Aditya
Mr. Samit Kumar Mondal
..for the petitioners

Mr. Avishek Sinha
..for the State

Item No. 20

Heard & Judgment on: 12.05.2023

Bibek Chaudhuri, J.

It is submitted by the learned advocate for the petitioners that the petitioners initially acted as promoters without registering its name under the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) (Amendment) Act, 2002. For such failure the Special Officer, Department of Housing,

Government of West Bengal under the said Act lodged a complaint alleging, inter alia, that failure on the part of the promoter in compliance with or contravening any of the provisions of the Act shall be treated as offence as per Section 13(A) of the Act and the promoter is to be penalized as per Section 13(B) of the Act. It is submitted by the learned advocate for the petitioners that since it came to the notice of the petitioners that registration is required for construction of a building as promoter they moved this Court by filing W.P. No. 379 of 2012. The said writ petition was disposed of by the Hon'ble Justice Dipankar Datta as his Lordship then was vide order dated 18th June, 2012 directing the authorized officer, respondent No.3 to consider and dispose of the application for registration and promotion dated 12th July, 2011 strictly in accordance with law.

On the basis of the said order the concerned department has registered the name of the petitioners as registered promoters vide order dated 27th September, 2012. The complaint on the basis of which the instant case originated was made on 4th April, 2012 i.e., before the order passed by the authorized officer under the said Act on 27th September, 2012 and also the order passed in W.P. 379 of 2012 which was passed on 18th June, 2012.

However, after the said order being passed, there remains nothing to adjudicate as to whether any penal provision under the Act

is applicable against the petitioners or not in view of the fact that the instant revision can be disposed of here and now. This Court takes assistance of Mr. Avishek Sinha, learned Advocate on behalf of the State of West Bengal. A copy of the revisional application has been supplied to Mr. Sinha by the learned Advocate for the petitioners.

Mr. Sinha submits that in view of the subsequent order passed in the above-mentioned writ petition and regularization of work done by the petitioners and on due grant of registration by the authorized officer in favour of the petitioners, the complaint does not stand and accordingly, the consequent charge sheet No.56 of 2012 arising out of Ballygunge Police Station Case No.51 dated 11th April, 2012 corresponding to G.R. Case No.1562 of 2012 may be quashed.

In view of such submission, the instant revision is allowed. Further proceedings in connection with G.R. Case No.1562 of 2012 under Sections 13A and 13B of the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, pending before the learned Judicial Magistrate, 3rd Court at Alipore be quashed.

The learned Judicial Magistrate, 3rd Court at Alipore is directed to drop the proceedings in connection with G.R. Case No. 1562 of 2012 and pass a formal order discharging the petitioners from the case.

The instant revision is **disposed of** on contest.

Parties are at liberty to take appropriate step on the server copy of the order.

(Bibek Chaudhuri, J.)