

June 15, 2023
AD -23
Ct. 34
SG

CRR 2883 of 2022
with
CRAN 2 of 2022
CRAN 5 of 2023

Bijay Bhowmick @Khokan Bhowmick
-versus-
The State of West Bengal and another

Mr. Amitabha Ghosh
Mr. Bandhu Brata Bhula
Ms. Nabamita Chatterjee
... for the petitioner

Mr. Sudip Ghosh
Mr. Bitasok Banerjee
... for the State

The petitioner has challenged the proceedings being NGR No.981/22/SEM arising out of PR No.852 of 2021 dated 02.12.2021. The said proceedings were initiated by Dum Dum Police Station on GDE Nos.1814, 1833 dated 13.02.2022 and 14.02.2022 with a prayer for drawing up proceedings under Section 107 Cr.P.C. before the learned Special Executive Magistrate, Barrackpore Police Commissionerate.

Mr. Ghosh, learned advocate for the petitioner submits that the petitioner is aged about 78 years and the civil court has passed an order in his favour. In spite of that, the trespasser being the opposite party No.2 is creating disturbance and breach of the peace and tranquillity for which the police authorities have drawn up the present proceedings against the petitioner wherein only two police constables have been made witnesses in the case.

Records reflect that the petitioner was represented on 22.07.2022 wherein he prayed for time for filing show-cause notice on or before 12.08.2022. In the meantime the petitioner approached this Court on 11.08.2022 and an interim order was passed in favour of the petitioner. Since then from time to time the interim order has been extended. However, the petitioner has not filed show-cause notice till date. The proceedings under Section 107 Cr.P.C. are the exclusive administrative domain wherein the police authorities are to decide whether there is any breach of peace or there is any apprehension of disturbance or breach of peace and tranquillity in the area or locality.

Having regard to the same, I am not inclined to interfere with the proceedings since the petitioner undertook to file a show-cause notice before the learned special executive magistrate.

The petitioner is granted liberty to file a show-cause notice with a prayer for dropping the proceedings and if the learned magistrate finds that the order of civil court is in favour of the petitioner and the dispute is civil in nature, then the learned executive magistrate will not deter from dropping the proceedings.

With the aforesaid observations, CRR 2883 of 2022 is disposed of.

Pending application, if any, is consequently disposed of.

As the petitioner is 78 years old, the petitioner may be represented through learned advocate and the learned

executive magistrate would not insist on personal appearance of the petitioner.

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

(Tirthankar Ghosh, J.)