

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

Appellate Side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 2425 of 2019

Smt. Arati Singha (Mukhopadhyay)

Vs.

State of West Bengal & Ors.

For the petitioner : Mr. Samiran Mandal,
Mr. Abhinaba Dan.

For the State : Mr. Madhusudan Sur,
Mr. Arijit Ganguly,
Mr. Sanjib Kumar Dan.

For the Opposite Party nos.2,3 & 4: Mr. Gopal Chandra Ghosh.

Heard on : 18.07.2023

Judgment on : 10.08.2023

Shampa Dutt (Paul), J.:

1. The present revision has been preferred against an Order dated 07.08.2019 passed by the learned Additional Chief Judicial Magistrate at Arambagh, Hooghly in M.P. Case No.139 of 2019 by rejecting the petition filed by the petitioner under Section 156(3) of the Code of Criminal Procedure, 1973.

2. The petitioner's case is that he is the owner of a pond namely Talpukur measuring an area 2.39 acre, J. L. No.45, Khatian No.594, Dag No.877, Mouza-Khanakul within Police Station-Khanakul, District-Hooghly.

3. By virtue of a deed of partition executed on 26.06.1978 between the family members, the petitioner got the pond namely "Talpukur" measuring an area of 2.39 acres in her share.

4. While peacefully enjoying and/or occupying the said pond in the year 2016 the opposite party nos. 2, 3 and 4 forcefully entered into the pond which belongs to the petitioner and they started looting fishes from it.

5. The opposite party nos.2, 3 and 4 claimed themselves to be the owners in respect of the pond in question since their names have been recorded in the Record of Right and accordingly the petitioner filed an objection before the Block Land and Land Reforms Officer, Khanakul-I, and in response thereto vide memo No.101 Kh/16 dated 08.02.2016 the Block Land and Land Reforms Officer informed the petitioner's husband Sri Samir Mukherjee that the record of rights in respect of plot No.877 in Mouza-Khanakul, (J.L. No.45) has been corrected vide No. MC/2015/0616/760 in computerized Land Records but no proceeding regarding nature of change or no copy of the order is found, as it appeared from the register as well as the case records.

6. The petitioner preferred an appeal under Section 54 of the West Bengal Land Reforms Act wherein the appellate authority under Section 54 of the West Bengal Land Reforms Act remanded the matter before the Block Land and Land Reforms Officer, Khanakul-I.

7. In terms of the above direction the Revenue Officer considered the case of the petitioner afresh and vide order dated 23.08.2017 he came to the finding that it is revealed from the order sheet of MN/2015/0616/760 dated 15.07.2017 that one Sk. Nurul Islam, son of Sk. Kobad Ali filed for mutation in respect of plot nos. 229, 232, 233 of Mouza Patul, J. L. No.26 which is not at all related to the suit plot. So it is clear that 2nd party was somehow able to mutate his name by virtue of a proceedings which does not exist and accordingly came to the conclusion that the record of right has been wrongly framed in favour of the Second Party, the opposite party nos.2, 3 and 4 herein.

8. In spite of correction of the Record of Rights, the opposite party nos. 2, 3 and 4 by showing the old Record of Right which was prepared in their favour are interfering in the pond which belongs to the petitioner and on informing the police authority no relief has been provided in her favour since the opposite party nos.2, 3 and 4 are influencing them that the earlier Record of Right prepared in their favour are genuine.

9. Against such false computer recording by incorporating the name of the opposite party nos.2, 3 & 4 as appears from the letter dated 08.02.2016 issued by the Block Land and Land Reforms Officer, Khanakul-I, Hooghly it is crystal clear that the opposite party nos.2, 3 and 4 in collusion with the officials of Block Land and Land Reforms Officer, Khanakul-I have forged the order for which they are liable to be prosecuted criminally.

10. The petitioner lodged a complaint under Section 156(3) of the Code of Criminal Procedure before the learned Additional Chief Judicial Magistrate, Arambagh, Hooghly and on 07.08.2019 the learned Magistrate was pleased

to reject the prayer under Section 156(3) of Code of Criminal Procedure as filed by the petitioner by coming to the conclusion that the disputed records relate to a civil property matter, for which the complainant has a separate forum for ventilating her grievances. The learned Additional Chief Judicial Magistrate further came to the finding that in view of the observation made by the Hon'ble Supreme Court in *Priyanka Srivastav & Ors. vs The State of West Bengal*, the remedy available under Section 156(3) of the Code of Criminal Procedure cannot be exercised in such a manner.

11. **Mr. Samiran Mandal, learned counsel for the petitioner** has submitted that the learned Chief Judicial Magistrate came to a wrong finding that the dispute is purely civil in nature for which the petitioner has to ventilate her grievances before a separate forum.

12. That though the petitioner made out a clear case of falsification of the Government record by fraud practice but the court did not deal with the same.

13. That the learned Magistrate while considering the prayer made by the petitioner did not consider the provisions of law under Section 156(3) of the Code of Criminal Procedure and passed the order without any cogent reason.

14. That the order dated 07.08.2019 passed by the learned Additional Chief Judicial Magistrate, Arambagh, Hooghly is not sustainable in the eye of law and liable to be set aside.

15. Mr. Mondal has stressed upon the order dated 23.08.2017 of the Revenue Officer of Khanakhul-I in a Misc. Case under Section 50F of the West Bengal Land Reforms Act.

16. **Mr. Gopal Chandra Ghosh, learned counsel for the opposite party nos.2 to 4** has submitted that they have 0.06 acre share in the pond constituting a total area of 2.39 acres. The petitioner's case is malafide and as such the revision is liable to be dismissed.

17. **Mr. Madhusudan Sur, learned counsel for the State** has placed the case diary along with a report submitted by the local Police Station. It is stated in the report dated 18.07.2023, that:-

“.....The petitioner of this instant appeal Smt. Arati Singha (Mukhopadhyay) regarding the dispute arising out on occupancy over the suit property having schedule of Dag No.877, recorded in Khatian No.594 within ambit of Mouza-Khanakul in J.L. No.45, filed a complaint under provision of Section 156(3) of the Code of Criminal Procedure, 1973 in the Court of Learned Additional Chief Judicial Magistrate, Arambagh, Hooghly, and further being aggrieved by the order decreed by the learned Magistrate vide Order dated 07.08.2019 in correspondence with M.P. Case No.139/2019, the petitioner challenging the order filed this instant appeal.

*The petitioner Smt. Arati Singha (Mukhopadhyay) along with her brothers namely Swapan Singha, Durga Pada Singha, Jagabandhu Singha and Rajkumar Singha **as legal heirs of their presently deceased predecessors conjointly became owner of the suit property in question** having schedule of Dag No.877, recorded in Khatian No.594 within ambit of Mouza-Khanakul in J.L. No.45, which is comprised of total area of 2.39 acres. The respective possession of each of the co-owner have been ascertained by virtue of the **deed of partition** executed in the year 1978 and since then they have been enjoying possession of their occupancy. It is pertinent to mention herein that, the nature of the scheduled property is a local pond and the land properties adjoined with the ponds.*

*Instead of ascertained occupancy over the suit property, a dispute cropped up between the co-owners i.e. the three brothers being Durga Pada Singha, Jagabandhu Singha and Rajkumar Singha on one side and the elder sisters namely Smt. Arati Singha (Mukhopadhyay) on other side. The discord arise between them, as the three brothers namely Durga Pada Singha, Jagabandhu Sngha and Rajkumar Singha claimed that, out of total 2.39 acres area of the total pond, 2.33 acre area originally belonged to the petitioner Smt. Arati Singha (Mukhopadhyay) after partition and the **remaining 0.06 acre belonged to them as they had***

bought the same by executing deeds in the year 1988 and 1990.

Further for rectification of the corresponding records of lands, the opposite parties as well as the petitioner filed appeal before the concerned Block Land and Land Reforms Officer. At first, in consonance with their appeal, the records of land have been mutated in their name but challenging the order, the petitioner filed appeal before the authority. Accordingly, in consonance with the appeal of the petitioner, the records of the disputed property had been mutated in the name of the petitioner, but this time, the opposite parties i.e. Durga Pada Singha, Jagabandhu Singha and Rajkumar Singha filed appeal before the concerned **Collector & District Land & Land Reforms Officer vide L.R Appeal no.312 of 2018. In consonance with the appeal, vide Order dated 30.07.2019, order has been accorded upon the concerned Block Land and Land Reforms Officer and accordingly, the Block Land & Land Reforms Officer vide order dated 30.12.2020, the record in respect of disputed 0.06 acre of land have been mutated again in the name of the opposite parties i.e. in the name of Durga Pada Singha, Jagabandhu Singha and Rajkumar Singha vide Khatian No.1853, 1854 & 1855.**

Regarding role of Police in the context of the alleged dispute, this is submitted herein that, on 22.09.2019, one Tripti Singha, daughter of Sri Durga Pada Singha lodged a complaint at this Police Station vide Khanakul Police Station General Diary Entry No.1395 dated 22.09.2019 against the husband of the petitioner and two others, regarding which an enquiry has been conducted from the end of this Police Station. After enquiry vide Khanakul Police Station General Diary Entry No.1882 dated 30.09.2019, as per findings, a report as non-cognizable had been submitted vide Khanakul Police Station Non-cognizable Report No.1060 dated 30.09.2019 against the alleged perpetrators i.e. the petitioner and two others under provision of Section 107/116(C) of the Code of Criminal Procedure, 1973 in anticipation of the order of the learned court with a view to bound them down and prosecute them.

Also, the petitioner submitted a complaint at this Police Station and further lodged complaint before the learned Court of Additional Chief Judicial Magistrate, Arambagh, Hooghly under provision of Section 156(3) of the Code of Criminal Procedure, 1973 vide M.P. Case No.139/2019, alleging that, his alleged brothers namely Durga Pada Singha, Jagabandhu Singha and Rajkumar Singha in connivance with the staffs of the office of the Block Land & Land Reforms Officer had manipulated the records in respect of the 0.06 acre of disputed properties and illegally mutated their name in the

corresponding Government records. Therefore, seeking legal action against such acts perpetrated by the opposite parties, the petitioner lodged the complaint. During enquiry it is found that, the total area of 2.39 acre of the property had been initially recorded in the name of the petitioner, but as the 0.06 acre of the property had been bought by the opposite parties separately, and the same is not part of their ancestral property. Learned Court of Additional Chief Judicial Magistrate, Arambagh also pleased to accord order refusing to exercise the provision of 156(3) of the Code of Criminal Procedure, 1973 in this context against which the petitioner ventilating her grievances filed this instant revision application.

One of the legal heir Smt. Sandhya Singha (Nandi) (sister of the petitioner) being deprived from any share over her ancestral properties, at first filed an appeal before the learned Civil Judge, Senior Division, Arambagh Court vide Title Suit No.68 of 2010 and also the petitioner filed another appeal in the court of learned Civil Judge, Junior Division, 1st Court, Arambagh vide Title Suit No.48 of 2010 and both the cases are presently under sub-judice.

From above facts and circumstances, it is therefore, established that, the dispute regarding occupancy over the claimed 0.06 acre of property is purely civil in nature and there is no criminal offence in play as alleged herein.....”

Sd/-
S.I. Officer-In-Charge
Khanakul Police Station, Hooghly.

18. It appears from the report that the dispute by an order subsequent to the order placed by the petitioner, the DL & LRO in an appeal against the said order in L.R. Appeal No.312 of 2018, decided in favour of the opposite parties and the opposite parties name has been mutated in respect of the 0.06 acre of land vide an order of the BL & LRO dated 30.12.2020, who had been informed of the order of the DL & LRO on 30.07.2019.

19. **The petition under Section 156(3) of Cr.P.C. has been presented on 07.08.2019, after the dispute had already been decided by the appellate forum.**

20. Considering the materials on which the present case was sought to be initiated, it is evident that the dispute relates to family property and their respective shares. The contention of the petitioner that the concerned officer was responsible as noted in the order dated 23.08.2017 for the erroneous recording and as such he should be proceeded against in a criminal case is a matter to be looked into by his superior officer, which has been already taken care of.

21. In the present case the order dated 23.08.2017 has been set aside on appeal by the DL & LRO in favour of the accused persons vide order dated 30.07.2019.

22. The dispute as rightly held by the Magistrate is purely civil in nature. For the disputes relating to their family property, **there are several cases pending between the parties before the civil courts.** The case as made out in the petition under Section 156(3) of Cr.P.C is as follows :-

“.....The crux of her allegation is that the accused persons being her brothers have fraudulently recorded the scheduled property which is a water body in the LRROR in their name, taking advantage of her absence. It is her presumption that the accused persons in connivance with the staffs and officers of the BL & LRO office have fraudulently recorded their name in the records with an ulterior motive to grab her property.....”

23. The Supreme Court in ***Inder Mohan Goswami & Anr. Vs State of Uttaranchal & Ors., Appeal (Crl.) 1392 of 2007, on 09.10.2007***, held:-

“The veracity of the facts alleged by the appellants and the respondents can only be ascertained on the basis of evidence and documents by a civil court of competent jurisdiction. The dispute in question is purely of civil nature and respondent no.3 has already instituted a civil suit in the court of Civil Judge. In the facts and circumstances of this case, initiating criminal proceedings by the respondents against the appellants is clearly an abuse of the process of the court. Scope and ambit of courtspowers under section 482 Cr.P.C.

This court in a number of cases has laid down the scope and ambit of courtspowers under section 482 Cr.P.C. Every High Court has inherent power to act ex debito justitiae to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under section 482 Cr.P.C. can be exercised:

- (i) to give effect to an order under the Code;*
- (ii) to prevent abuse of the process of court, and*
- (iii) to otherwise secure the ends of justice.*

Inherent powers under section 482 Cr.P.C. though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the Court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the Statute.

Discussion of decided cases Reference to the following cases would reveal that the courts have consistently taken the view that they must use this extraordinary power to prevent injustice and secure the ends of justice. The English courts have also used inherent power to achieve the same objective. It is generally agreed that the Crown Court has inherent power to protect its process from abuse. In Connelly v. DPP [1964] AC 1254, Lord Devlin stated that where particular criminal proceedings constitute

an abuse of process, the court is empowered to refuse to allow the indictment to proceed to trial. Lord Salmon in DPP v. Humphrys [1977] AC 1 stressed the importance of the inherent power when he observed that it is only if the prosecution amounts to an abuse of the process of the court and is oppressive and vexatious that the judge has the power to intervene. He further mentioned that the courts power to prevent such abuse is of great constitutional importance and should be jealously preserved.

In R.P. Kapur v. State of Punjab AIR 1960 SC 866, this court summarized some categories of cases where inherent power can and should be exercised to quash the proceedings:

(i) where it manifestly appears that there is a legal bar against the institution or continuance of the proceedings;

(ii) where the allegations in the first information report or complaint taken at their face value and accepted in their entirety do not constitute the offence alleged;

(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

The powers possessed by the High Court under section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court should normally refrain from giving a prima facie decision in a case where all the facts are incomplete and hazy; more so, when the evidence has not been collected and produced before the court and the issues involved, whether factual or legal, are of such magnitude that they cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceedings at any stage.

This court in **State of Karnataka v. L. Muniswamy & Others** (1977) 2 SCC 699 observed that the wholesome power under section 482 Cr.P.C. entitles the High Court to quash a proceeding when it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed. The High Courts have been invested with inherent powers, both in civil and criminal matters, to achieve a salutary public purpose. A court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. The court observed in this case that ends of justice are higher than the ends of mere law though justice must be administered according to laws made by the legislature. This case has been followed in a large number of subsequent cases of this court and other courts.

In **Chandrapal Singh & Others v. Maharaj Singh & Another** (1982) 1 SCC 466, in a landlord and tenant matter where criminal proceedings had been initiated, this Court observed in para 1 at page 467 as under:-

A frustrated landlord after having met his Waterloo in the hierarchy of civil courts, has further enmeshed the tenant in a frivolous criminal prosecution which prima facie appears to be an abuse of the process of law. The facts when stated are so telling that the further discussion may appear to be superfluous. The court noticed that the tendency of perjury is very much on the increase. Unless the courts come down heavily upon such persons, the whole judicial process would come to ridicule. The court also observed that chagrined and frustrated litigants should not be permitted to give vent to their frustration by cheaply invoking jurisdiction of the criminal court.

This court in **Madhavrao Jiwajirao Scindia & Others v. Sambhajirao Chandojirao Angre & Others** (1988) 1 SCC 692 observed in **para 7** as under:

7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to

whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilized for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage. In State of Haryana & Others v. Bhajan Lal & Others 1992 Supp. (1) SCC 335, this court in the backdrop of interpretation of various relevant provisions of the Cr.P.C. under Chapter XIV and of the principles of law enunciated by this court in a series of decisions relating to the exercise of the extraordinary power under Article 226 of the Constitution of India or the inherent powers under section 482 Cr.P.C. gave the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of the court or otherwise to secure the ends of justice. Thus, this court made it clear that it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list to myriad kinds of cases wherein such power should be exercised:

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission

of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

This court in **Janata Dal v. H. S. Chowdhary & Others** (1992) 4 SCC 305 observed thus:

132. The criminal courts are clothed with inherent power to make such orders as may be necessary for the ends of justice. Such power though unrestricted and undefined should not be capriciously or arbitrarily exercised, but should be exercised in appropriate cases, *ex debito justitiae* to do real and substantial justice for the administration of which alone the courts exist. The powers possessed by the High Court under section 482 of the Code are very wide and the very plentitude of the power requires great caution in its exercise. Courts must be careful to see that its decision in exercise of this power is based on sound principles. In **G. Sagar Suri & Another v. State of UP & Others** (2000) 2 SCC 636, this court observed that it is the duty and obligation of the criminal court to exercise a great

deal of caution in issuing the process particularly when matters are essentially of civil nature.

*This court in **Roy V.D. v. State of Kerala** (2000) 8 SCC 590 observed thus:-*

*18. It is well settled that the power under section 482 Cr.P.C has to be exercised by the High Court, inter alia, to prevent abuse of the process of any court or otherwise to secure the ends of justice. Where criminal proceedings are initiated based on illicit material collected on search and arrest which are per se illegal and vitiate not only a conviction and sentence based on such material but also the trial itself, the proceedings cannot be allowed to go on as it cannot but amount to abuse of the process of the court; in such a case not quashing the proceedings would perpetuate abuse of the process of the court resulting in great hardship and injustice to the accused. In our opinion, exercise of power under section 482 CrPC to quash proceedings in a case like the one on hand, would indeed secure the ends of justice. This court in **Zandu Pharmaceutical Works Ltd. & Others v. Mohd. Sharaful Haque & Another** (2005) 1 SCC 122 observed thus:-*

*It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers, court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto. In **Indian Oil Corporation v. NEPC India Ltd. & Others** (2006) 6 SCC 736, this court again cautioned about a growing tendency in business circles to convert purely civil disputes into criminal cases. The court noticed the prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. The court further observed that any effort to settle civil disputes and*

claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged. The question before us is - whether the case of the appellants comes under any of the categories enumerated in Bhajan Lal (supra)? Is it a case where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in entirety, do not make out a case against the accused under Sections 420, 467 and 120B IPC? For determination of the question it becomes relevant to note the nature of the offences alleged against the appellants, the ingredients of the offences and the averments made in the FIR/complaint.”

24. The Supreme Court in **R. Nagender Yadav vs The State of Telangana, Criminal Appeal No. 2290 of 2022, on 15 December, 2022**, held:-

*“17. While exercising its jurisdiction under Section 482 of the CrPC, the High Court has to be conscious that this power is to be exercised sparingly and only for the purpose of prevention of abuse of the process of the court or otherwise to secure the ends of justice. Whether a complaint discloses a criminal offence or not, depends upon the nature of the act alleged thereunder. **Whether the essential ingredients of a criminal offence are present or not, has to be judged by the High Court.** A complaint disclosing civil transaction may also have a criminal texture. But the High Court must see whether the dispute which is in substance of a civil nature is given a cloak of a criminal offence. In such a situation, if civil remedy is available and is in fact adopted, as has happened in the case on hand, the High Court should have quashed the criminal proceeding to prevent abuse of process of court.”*

25. Accordingly the order under revision being in accordance with law requires no interference and is affirmed.

26. **The revisional application being CRR 2425 of 2019 is dismissed.**

27. The Order dated 07.08.2019 passed by the learned Additional Chief Judicial Magistrate at Arambagh, Hooghly in M.P. Case No.139 of 2019 by

rejecting the petition filed by the petitioner under Section 156(3) of the Code of Criminal Procedure, 1973, **is affirmed.**

28. All connected applications, if any, stands disposed of.

29. Interim order, if any, stands vacated.

30. Copy of this judgment be sent to the learned Trial Court for necessary compliance.

31. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)