

Item-
4. 23-11-2023

Court-34
sg

C.R.R. 3000 of 2023

Manu Gopal
Versus
State of West Bengal & Anr.

Mr. Khwaja Shamshad Ahmad, Adv.
... for the petitioner
Ms. Soni Ojha, Adv.
Ms. Sonia Nandy, Adv.
...for the opposite party no.2
Mr. Anwar Hossain, Adv.
Ms. Manisha Sharma, Adv.
...for the State

1. The learned Advocate for the petitioner submits that so far as the amount for which the case has been initiated under the relevant provisions of Section 25 of the Payment and Settlement System Act, 2003 being Complaint Case No. CS/51664/23, the whole amount was disbursed and accepted by the complainant and thereafter mala fide by the present complaint was filed. To that extent certain documents have been enclosed.
2. The learned Advocate for the accused petitioner emphatically submitted that prior to the issuance of notice, such payment was disbursed. On the other hand, the learned Counsel appearing for the complainant opposite party denies receipt of any payment towards such dues, which is the subject matter of the case.
3. Having considered the submission and rival submission, I am of the opinion, that since the issue relates to question of facts, this Court cannot exercise its jurisdiction under Section 482 Cr.P.C. to come to a finding as to whether the submission advanced by the accused petitioner or the complainant opposite party is correct.
4. However, the learned Magistrate will allow the parties to adduce their respective evidence and arrive at its independent finding.
5. The petitioner happens to be a resident of Prayagraj (Allahabad), UP.

Accordingly, if an application under section 205 Cr.P.C is filed before the learned Metropolitan Magistrate, 5th Court, the learned Magistrate on usual undertaking and terms and conditions will consider and not insist on regular physical appearance of the accused petitioner.

6. With the aforesaid observation, CRR 3000 of 2023 is disposed of. All pending applications, if any, shall also be disposed of.
7. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)