

31.08.2023
Serial no. 6
[G.S.D]

CRR 3936 of 2022
With
CRAN 3 of 2023

In the matter of : Biswanath Mitra

... .. Petitioner

Mr. Rajdeep Mazumder
Mr. Pritam Roy

... for the petitioner

Mr. Saswata Gopal Mukherjee
Mr. Rudradipta Nandy
Mr. Avishek Sinha

... For the State

The further investigation of the case has been commenced.

A report has been submitted by the Deputy Commissioner of Police, Central Asansol Durgapur Police Commissionerate. Let the same be kept with the record in a sealed cover.

In view of the further investigation progressing, at this stage, I am not inclined to interfere with the prayers so advanced on behalf of the petitioner.

Learned Advocate for the petitioner has relied upon the judgment reported in (2010) 12 SCC 254 (*Babubhai - Vs- State of Gujarat & Ors.*). Learned Advocate submits that paragraph 21 of the said judgment refers to the test of

sameness which has been reiterated by the Hon'ble Apex Court in a number of cases.

Learned Advocate also relies upon an unreported judgment of the Hon'ble Supreme Court in Criminal Appeal No. 1400 of 2022 (*Tarak Dash Mukharjee & Orss.-Vs- State of Uttar Pradesh & Ors.*). Paragraph 12 of the said judgment has been relied upon by the Learned Advocate for the petitioner to state that if multiple FIRs/criminal proceedings of the same set of facts and allegations are permitted to be registered, the same would result in abuse of process of law.

Be that as it may, in this case, the original transaction/manipulation started from ICDS Project but so far as the transactions are concerned and the alleged offences which are being investigated into, they belong to different police stations with different set of facts. It would not be proper at this stage to assess regarding the territorial jurisdiction or the pecuniary jurisdiction involved in respect of the investigation, which is being carried out.

Having regard to the same, at this stage, I do not intend to interfere with the continuance of the proceedings.

The report reflects that further investigation of the case is in progress. Let the same arrive at its logical conclusion.

However, the petitioner would be at liberty to approach this Court at the appropriate stage after the report

under Section 173(8) of the Cr.P.C. is filed before the appropriate Court of law and the documents under Section 207 of the Cr.P.C. are supplied to the present petitioner.

If any other remedies are available, the petitioner is entitled to exhaust the same.

The Deputy Commissioner of Police and the Investigating Officer of the case is present in Court and their further appearance for the day is dispensed with.

With the above observations, CRR 3936 of 2022 along with CRAN 3 of 2023 is disposed of.

Pending application, if any, is also disposed of.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court at Calcutta.

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

(Tirthankar Ghosh, J.)