

12.09.2023

Item No.14
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 4055 of 2022

In the matter of : **Dr. Somnath Biswas** ... Petitioner.

Mr. R. Chatterjee,
Mr. Niladri Sekhar Ghosh,
Mr. Aniruddha Mitra,
Ms. Sompurna Chatterjee,
Mr. Sourav Mondal ... For the Petitioner.

Mr. S. G. Mukherjee, Ld. P.P.,
Mr. Arijit Ganguly,
Mr. Sanjib Kumar Dan ... For the State.

Mr. Dhiraj Trivedi, Ld. D.S.G.I.,
Mr. Sunil Gupta,
Ms. Swapna Jha ... For the A.S.I./Opposite Party No.2.

Report submitted by Mr. Arijit Ganguly, learned advocate appearing for the State be kept on record.

The said report reflects that on the basis of an information received from the department of Archaeological Survey of India, Bishnupur regarding illegal construction within the prohibited area of Rasmancha Temple by the petitioner herein, a case was initiated after getting necessary permission from the learned Additional Chief Judicial Magistrate, Bishnupur.

Mr. Ghosh, learned advocate appearing for the petitioner has challenged the continuance of the case primarily relying upon definition of “construction” as is envisaged in Section 2(dc) of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 as also Sections 19 and 30 of the said Act.

Mr. Trivedi, learned DSG, appearing for the opposite party no.2/ASI submits that after 2015 when they were

constructing, obtaining permission from the Municipality and the complaint was lodged, an application was filed seeking for permission. The same was after the offence was committed by the accused person.

So far as the issue relating to law is concerned, the same was already considered by the learned sessions court while exercising its jurisdiction under Sections 397 and 399 of the Code of Criminal Procedure. No fresh question of law has been canvassed to exercise or invoke the powers of this Court under Section 482 of the Code of Criminal Procedure. *Prima facie* a case has been made out for trial as it has been contended that within the regulated area there is a construction which has taken place, although the same has been denied by the petitioner which are restricted only to renovation and repair. The same is question of facts which are not gone into by this Court.

Accordingly, the revisional application being CRR 4055 of 2022 is dismissed.

Pending connected application, if any, is consequently disposed of.

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

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

(Tirthankar Ghosh, J.)