

30.08.2023
SL No.13
Court No.3

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

CRR 54 of 2022

In the matter of : Soumen Das

- Petitioner.

Mr. Sudip Guha
Mr. Sandip Guha Roy
....for the petitioner.

Mr. Aditi Shankar Chakraborty
Mr. Nilay Chakraborty
...for the State.

Heard Mr. Chakraborty, learned counsel for the State and Mr. Sudip Guha, learned counsel representing the petitioner.

This revisional application is filed by the petitioner seeking order of quashment of Dinhata Police Station Cse No. 56 of 2022 dated 3rd February, 2022 in the proceeding of G.R.Case No. 64 of 2022 pending before the learned A.C.J.M., Dinhata, Cooch Behar. The case was registered at the behest of Dinhata Municipality. The Executive Officer of the Municipality set the criminal proceeding into motion by informing the Inspector-in-Charge, Dinhata Police Station that in terms of Section 66 of the West Bengal Municipal Act, 1993, the petitioner, Soumen Das was entrusted with the responsibility to collect the toll under Section 93A of the Act. It was further agreed that Mr. Das shall pay a sum of Rs. 70,000/- per month to the Municipal Authority. Sri Das carried out the work for 64 months but did not clear the arrear dues. He owed a sum of Rs. 15, 40,000/- to the Municipal Authority.

It is alleged that Sri Das committed an act of fraud affecting the municipal exchequer.

It is submitted by learned counsel for the petitioner that due to Covid Pandemic, there was no traffic or few traffic and it was an impediment towards collection of toll and depositing the agreed amount to the Municipal Authority was next to impossible.

Though Mr. Chakraborty, learned counsel for the State vehemently submits that by the act or omission of the petitioner, the Municipal Authority suffers financially and there is nothing to rule out that it is not the intention of the petitioner to defraud the municipal authority. This petition according to learned counsel for the State should be rejected.

Admittedly, the petitioner has failed to discharge his obligation arising out of contract, due to some unforeseen reason, because of advent of Covid-19. I do not find any ingredient of offence that could make the petitioner culpable within the meaning of Section 409 or 420 of the Indian Penal Code. At best it could be a civil dispute, which has been imbued with colour of criminality. This is an abuse of process of law and in my considered opinion it is a fit case to invoke the prosecution of Section 482 of the Criminal Procedure Code to quash the FIR, which I accordingly do

However, this order shall not preclude the Municipal Authority to take out appropriate action against this petitioner under Civil Law.

(Siddhartha Roy Chowdhury,J)