

Item No.67
09.05.2024
GB/Ct. No. 34

C.R.R. 1622 of 2024

In Re : Rajesh Kumar Lath & Ors.

..... petitioners

Mr. Sandipan Ganguly,
Mr. Nilay Sen Gupta,
Mr. Subhojit Samanta,
Mr. Sujit Banerjee

..... for the petitioners.

Mr. Antarikshya Basu,
Ms. Suchismita Dutta

..... for the State.

Mr. Ayan Bhattacharya

..... for the Opposite Party.

Case diary has been placed by the learned advocate appearing for the State.

The case was initiated on March 13, 2024 by Purulia Town Police Station Case No.51 of 2024 under Sections 406, 420, 467, 468, 471 and 409 of the Indian Penal Code, on the basis of a letter of complaint made by one Prakash Chandra Lath. The point of dispute related to a family settlement deed, wherein the complainant states that there is no settlement being made while the petitioner submits that there were settlement being made and in respect of which properties at Rajasthan and Chakda were sold out and invested for construction of property at Purulia.

The learned advocates appearing on behalf of the opposite party and State submit that there are immense requirement for custodial detention of the present petitioners.

Till date the investigating authority has not received the settlement deed which is the fulcrum of the case for deciding whether any forgery has been committed or not amongst the family members. Prayer to that extent has been advanced very recently by the investigating officer of the case.

Records reflect that on May 6, 2024 notice was served and the statement of the concerned officer of the State Bank of India represented that the office is not in a position to handed over the title deed and it is only after direction of a court it can be handover. Majority of the persons who have been examined only have denied their signatures. None of the signatures were taken by the investigating officer for comparison nor the deed is under the custody of the investigating officer to assess the genuineness of the allegations.

Mr. Basu, learned advocate appearing for the State submits that an application has been preferred before the learned CJM, Purulia. The learned CJM, Purulia is yet to pass any order on the said application being made by the investigating officer.

The learned advocates for the defacto complainant and the State relied upon Paragraphs 20 to 23 of the judgment of the Hon'ble Supreme Court in ***Neeharika Infrastructure Private Limited versus State of Maharashtra and others*** reported in ***(2021) 19 SCC 401*** to resist the submission for any interim order being passed in respect of the case under investigation.

The background of the case reflects that the same is a family dispute, where the parties are known to each other. It is also reflected that the complainant and a set of relations along with him has claimed that they have been deprived by way of a settlement deed which was never in existence. On the other hand, the petitioner has contended that there was a settlement deed from which there were transactions which were given effect to.

Having regard to the overall circumstances of the case and the fact that the investigating officer is wanting the custody of the present

petitioners only on the basis of the statement under Section 161 of the Code of Criminal Procedure, I am of the view that the following directions be passed in the instant case:-

1. The ACJM, Purulia will direct the bank authorities to hand over the settlement deed.
2. Signatures of all the persons appearing therein (provided they are alive) be directed to be taken and sent for examination by the handwriting expert.
3. In case the investigating officer requires the presence of the present petitioners, the investigating officer would be at liberty to serve notice upon them.
4. If the investigating officer is of the view that the custody of the petitioners are required for the purposes of the present case, going by the materials which have been collected, he would be at liberty to exercise his powers under the law after obtaining the opinion of the handwriting expert.
5. In the meantime, it would be the liberty of the petitioners to approach the appropriate court of law to exhaust the remedy available to them.

With the aforesaid observations CRR 1622 of 2024 is disposed of.

Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Tirthankar Ghosh, J.)