

CRR 2195 of 2024

Tapan Santra & ors.
Vs.
The State of West Bengal & anr.

Adv. Tanmay Chowdhury,
Adv. Ritoprita Ghosh,

...for the petitioners.

Adv. Ranabir Roy Chowdhury,
Adv. Sana Naaz,

...for the State.

Affidavit of service filed on behalf of the petitioners is taken on record.

None appears for the private opposite party despite service.

The petitioners seek quashing of proceeding of G.R. case no. 682 of 2023 pending before the learned Judicial Magistrate, 2nd Court, Arambagh, Hooghly.

Learned counsel for the petitioners submits that the private opposite party/defacto complainant has been trying to construct a temple by encroaching upon the embankment of a pond owned by the petitioners for which the petitioners filed a civil suit wherein they obtained an order of injunction against the private opposite party. Despite such injunction, the private opposite party attempted to continue with the construction for which there was a dispute between the parties. The petitioner lodged a First Information Report against the private opposite party. As a counter-blast, the present complaint has been lodged.

Learned counsel for the State take this Court to the injury reports and the statements of the eye witnesses to the incident recorded under Section 161 of the Code of Criminal Procedure which *prima facie*, indicate that there was a dispute between the parties which led to injuries sustained by at least four persons.

There are several factual aspects involved in the matter which need to be dealt with by the learned trial Court. Whether the allegations as made out in the FIR has been substantiated against the petitioners need to be ascertained at the appropriate stage of proceedings by the learned trial Court upon recording evidence of the witnesses. This is not a fit case where this Court, in exercise of jurisdiction under Section 482 of the Code of Criminal Procedure, can quash the proceeding in its entirety.

In view of the above, this Court is inclined to hold that the proceeding needs to be continued before the learned trial Court and decided on merits.

Accordingly, the revisional application, being CRR 2195 of 2024 is dismissed.

There shall however, be no order as to costs.

Urgent certified website copy of this order, if applied for, be given to the parties, upon compliance of all necessary formalities.

(Suvra Ghosh, J.)