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19-11-2024
Ct. No.34
b.das

CRR No. 2626 of 2024

In the matter of : Subhas Krishna Thakur
..... petitioner.

Mr. Kamalesh Ch. Saha
Ms. Payel Mitra
Mr. S. Saha
Mr. M. Saha ...for the petitioner.

Ms. Rituparna De Ghose
Mr. Dipankar Mahata ...for the State.

Affidavit of service filed by the petitioner is taken on record.

The petitioner who is one of the sons of the private opposite party, since deceased, seeks quashing of the proceeding in connection with GR 872 of 2009 pending before the learned Judicial Magistrate, Bongaon.

Learned counsel for the petitioner submits that there has been a long standing dispute between the private opposite party and her youngest son and his family on one hand and the petitioner, his brother and sister who are also the sons and daughter of the private opposite party, on the other hand.

The private opposite party has alleged that the petitioner and his brother and sister took her signature on blank papers upon practising fraud and misrepresentation and converted the same to two separate deeds of gift in

their favour in respect of 57 ½ decimals of land in Mouza - Chikampara and Simulpur under P.S. Gaighata, District-North 24 Parganas belonging to the private opposite party. A civil suit filed by the private opposite party seeking a decree for declaration that the deeds impugned are null and void and also for a decree for injunction restraining the defendants (the petitioner is one of the defendants) from disturbing her peaceful possession in respect of the said property is pending.

Learned counsel submits that though charge sheet has been submitted against the petitioner and others under Section 420/120B/34 of the Indian Penal Code, there is no evidence on record in support of the charges. Charge has been framed by the learned Trial Court on 3rd December, 2024 and out of five charge sheeted witnesses only one witness has been examined till date.

Per contra, learned counsel for the State produces the case diary and submits that the FIR lodged by the private opposite party sufficiently depicts an offence under Section 420 of the Indian Penal Code. Witnesses who have been examined under Section 161 of the Code of Criminal Procedure have supported the case made out by the private opposite party/de facto complainant.

It appears that the civil suit filed by the private opposite party with regard to the alleged deeds is pending. In course of investigation, the investigating officer has not

thought it necessary to seize the deeds alleged to be forged and manufactured. Besides the witnesses referred to in the complaint itself, no other independent witness has been examined by the prosecution.

A subsequent complaint filed by Mihir Thakur and son of Sushil Krishna Thakur who is one of the sons of the private opposite party has ended in FRT.

The de facto complainant/private opposite party has expired on 4th February, 2014, making it difficult for the prosecution to take effective steps for arriving at a logical conclusion by the Court.

This Court is aware that jurisdiction under Section 482 of the Code ought to be exercised with extreme care, caution and circumspection should not be used to stifle or axe down a legitimate prosecution.

In view of the material available on record, this Court is inclined to hold that no prima facie case under Section 420/120B/34 of the Indian Penal Code has been made out against the petitioner and allowing the proceeding to continue shall amount to abuse of the process of the Court.

Accordingly, the revisional application being CRR 2626 of 2024 is allowed.

GR Case No.872 of 2009 pending before the learned Judicial Magistrate, Bongaon be quashed qua the

petitioner. It is made clear that the proceeding shall continue against the other accused.

Case Diary be returned.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)