

30.01.2024
Item no. 12
Ct.34
(Suvendu)

C.R.R. 2771 of 2023

In the matter of :- Shyaman

... Petitioner

Mr. Shibaji Kumar Das
Mr. D. Sarkar
Mr. S. Khatun

...for the petitioner

On 1st August, 2023 when the revisional application was taken up, an accommodation was sought for on behalf of the learned advocate. Today also when this matter is taken up for hearing, an accommodation has been prayed for.

Having considered the lack of persuasion on the part of the learned advocate, this Court decides to proceed with the revisional application on its merits.

The subject matter of the revisional application relates to a proceeding under Section 25 of the Payment and Settlement Systems Act, 2007 which is pending before the learned Metropolitan Magistrate, 18th Court at Calcutta.

The grounds on which the continuation of the proceedings have been challenged are (i) the proceeding is bad in law, (ii) the continuation of the proceeding as such is sheer abuse of process of Court and (iii) as per settled principle of law no offence is made out.

According to the learned advocate for the petitioner, although the allegations made in the complaint are false, fabricated and denied by the petitioner, the learned Magistrate has accepted the prosecution case as gospel truth.

The proceedings have been initiated by suppressing the arbitration proceeding, which is continuing. The manner in which the proceedings are continuing do cover the judgment of the Hon'ble Apex Court in Chowdhury Bhajanlal Vs. State of Haryana reported in AIR 1992 SC 604.

The learned trial court did not adhere to the provisions of Section 204 of the Code of Criminal Procedure.

The allegations made in the complaint and the associated documents even if taken into account do not make out any offence.

I have considered the submissions advanced on behalf of the petitioner and I am of the view that the issues so canvassed do not make out any case of interference by this Court at this stage.

Mr. Das, learned advocate appearing for the petitioner submits on instruction that the petitioner is ready and willing to settle the disputes in respect of the subject matter of complaint case being C.S. No. 36874/ 2022 pending before the learned Magistrate.

If on the next date such an application is filed before the learned Magistrate, the learned Magistrate would allow the parties to compound the offences.

With the aforesaid observations, CRR No. 2771 of 2023 is disposed of.

All parties to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)