

03.01.2024
Item No.29
BR

CRR 3627 of 2017

Jayanta Kumar Chakraborty
Vs.
State of W.B. & Anr.

Nobody appears on behalf of either of the parties on call. Even on earlier occasions no one represented for the petitioner. No accommodation sought for.

This case is pertaining to year 2017, nature of prayer and to avoid further delay the record is taken up for disposal on merit.

This is an application filed under Section 497 and 401 read with Section 482 of the Criminal Procedure Code challenging the correctness , illegality and perversity of the order dated 2.11.2017 passed by the Court of learned Executive Magistrate, Chandannagore , Hooghly in connection with case No. S/1053/2017 under Section 144 (2) of the Criminal Procedure Code thereby the learned

Executive Magistrate passed the following order as inter alia :

“ The petitioner Smt. Sikha Das of Vill-Doluigacha, P.O.+P.S. Singur, Dist-Hooghly is present and file a petition u/s 144 (2) of Cr. P. C. against O.Ps alleging that the O.Ps reside to the north side of the petitioner's property and now forcibly trying to make construction of house without leaving statutory space illegally. Heard the Ld. Advocate who apprehended breach of peace of the matter.

Perused the petition and considered , the O/C, Singur P.S. is directed to enquire into the petition and submit a report by the next date of hearing. He is also directed to maintain peace and tranquility strictly over the issue. No construction is allowed by O.Ps without leaving statutory space as per panchayat act.”

It is the contention of the petitioner that due to some personal interest the opposite party no. 2 has trying to disturb and/ or interfere into the construction work of the petitioner is totally vindictive and mala fide and the learned Executive Magistrate has no power to restrict the legal construction under Section 144 (2) of the Cr. P.C. Accordingly, the impugned order is illegal , perverse and without any reason as such liable to be set aside.

Upon perusal of the application as well as annexure thereto this Court finds the Executive Magistrate has given a direction to the Officer-in-Charge, Singur P.S. to enquire into the petition and submit a report by the next date of hearing that is on 12.12.2017. He further directed to maintain peace and tranquility strictly over the issue and no construction is allowed by the opposite party without leaving statutory space as per panchayat Act. There is no any mandatory restriction over the construction work made by the petitioner. Furthermore, as per Section 144 (4) of the Cr. P.C. no order shall remain in force for more than two months from making thereof. The impugned order was passed in the year 2017 which has no force in the eye of law.

Accordingly, application become infructuous. Consequently, **CRR 3627 of 2017** is, thus, disposed of with the above observations.

Let a copy of this order be sent to the learned Court below for information.

Urgent xerox certified copy of this order, if applied for be given to the learned advocate for the parties on usual undertakings.

(Ajay Kumar Gupta, J.)