

SL.-38

Ct.- 32

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side**

Present:

The Hon'ble Justice Ajay Kumar Gupta

**C.R.R. 3713 of 2017
With
CRAN 1/2018 (Old CRAN 289/2018)**

**Rahul Hossan
Versus
State of West Bengal**

For the State : Mr. Binay Panda, Adv.
Mr. Subham Bhakat, Adv.

Heard on : 04.01.2024

Judgment on : 04.01.2024

Ajay Kumar Gupta, J:

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

2. Learned counsel appearing on behalf of the State submits that the petitioner has filed this instant Revisional application against the order dated 09.11.2017 passed by the Learned District and Session Judge, Jalpaiguri in Criminal Revision no.84 of 2017 thereby the learned Session judge set aside the impugned order dated 02.11.2017 passed by the Executive Magistrate in an application filed under Section 144(2) of the Cr P C whereby and wherein directed the Officer-in- Charge, NJP Police Station to maintain peace and tranquillity over the disputed area and it was further directed to see that status quo to be maintained in respect of the possession, nature, character of the schedule land of the petitioner till further order by both the parties.

3. It is further submitted that the Learned Judge rightly set aside the said order because the Executive Magistrate exceeds his jurisdiction and passed status-quo order in respect of the possession, nature and character of property in dispute without hearing other side. Case is purely civil in nature. Furthermore, validity of such

order is already over and there is no force. As such the present application is liable to be dismissed.

4. Having heard the submissions and considering the application and annexures thereto, this Court finds that the order was passed in the year 2017 by the Executive Magistrate, Jalpaiguri under Section 144 (2) of the Crpc directing the parties to maintain status quo in respect of possession, nature and character of schedule land under dispute. The said order was challenged by opposite parties No. 2 to 5 before the District and Sessions Judge, Jalpaiguri. Upon hearing the parties, the said impugned order has been pleased to set aside after observing therein that without issuing any notice upon the opposite parties and hearing the parties, such type of order cannot be passed exparte. Furthermore there is no reflection about the urgency in the order sheet.

5. In view of the provision of Section 144 (4) Cr. P. C, the order passed by Executive Magistrate shall not remain in force for more than two months from making thereof. Provided that, if the State Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing a riot or any affray, it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further period not

exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification. Furthermore, the order dated 09.11.2017 passed by the Learned District and Sessions Judge is correct and found no jurisdictional error or perversity.

6. Under such circumstances, the instant application is devoid of merit.

7. With above observation, **CRR 3713 of 2017** is, thus, disposed of without order as to costs.

8. Consequentially, **CRAN 1 of 2018 (Old No. CRAN 289 of 2018)** is also disposed of.

9. No order as to costs.

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

11. 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)

BR [AR(Ct.)]