

08-08-2024
ct no. 32
Sl. 42
sp

C.R.R. 3793 of 2017
With
CRAN 1 of 2018
Taimuna Bibi & Ors.
-Versus-

The State of West Bengal & Anr.

Mr. Goutam Dinda

..for the petitioners

Mr. Debasish Roy,
Mr. Imran Ali,
Ms. Debjani Sahu

..for the State

1. By filing this revisional application under Section 482 of the Code of Criminal Procedure, 1973, all 24 petitioners/accused persons have prayed for quashing of the proceedings of G.R. (E) Case No. 901 of 2014 under Sections 406/420/34 of the Indian Penal Code pending before the Court of the learned Additional Chief Judicial Magistrate, Contai arising out of Bhagwanpur Police Station Case No. 176 dated 30.12.2014 as well as the Charge Sheet No. 220 dated 24.12.2016 under Sections 406/420/34 of the Indian Penal Code filed against all the accused persons including others.
2. The essential facts of the instant case are relevant for the purpose of disposal of the instant case as under:

On 30.01.2014, a letter of complaint had been filed by the opposite party no. 2/Block Development Officer, Bhagwanpur-I, Development Block, Purba Medinipur, alleging therein, inter alia, that the cash amount was allotted to the accused persons for construction of their dwelling house under Indira Awaas Yojana. As per the order, cash amount was allotted and delivered to the FIR named accused persons but they have misappropriated/defalcated the government money resulting an FIR being Bhagwanpur Police Station Case No. 176 dated 30.12.2014 under Sections 406/420/34 of the Indian Penal Code. Subsequently, after culmination of the investigation a prima facie case has been established against the petitioners as such a charge sheet being No. 220 dated 24.12.2016 has been submitted against all 24 accused persons including the others under Sections 420/406/34 of the Indian Penal Code. Thereafter, the learned Additional Chief Judicial Magistrate took cognizance of the offences punishable under Sections 406/420/34 of the Indian Penal Code and issued warrant of arrest against all the accused persons. Hence, the present petitioners approached before this Court praying for quashing of the entire proceeding with a contention that they are

innocent and falsely implicated into this case. Petitioners have constructed the dwelling house as per the fund allotted to them.

3. Learned advocate appearing on behalf of the petitioners submits that petitioners fall under the category of below the poverty line and they had interested to construct their own dwelling house as per the Indira Awaas Yojana Scheme. They were allotted first instalment to construct their dwelling house. Subsequently, two other instalments were also received by them for construction of the house as per the Indira Awaas Yojana. They have completed their dwelling house as per allotment of the fund and the scheme. As such the question of defalcation and misappropriation of fund as alleged by the BDO/opposite party no. 2 is not at all applicable in this case.
4. The detail report of the said scheme and status of the construction of the dwelling house was taken print out from the website of the Government of West Bengal. Wherefrom it could be revealed that the houses have been completed by the petitioners as such, the entire proceeding if continued then it would be a sheer abuse of process of law. Hence,

this court can exercise inherent power of jurisdiction to quash the proceeding under Section 482 of the Code of Criminal Procedure to secure the ends of justice. Report submitted by the State is taken on record.

5. On the other hand, the learned counsel appearing on behalf of the State also submits it appears from the report that the de facto complainant/BDO has informed the Officer-in-Charge, Bhagwanpur Police Station about the present status of the dwelling house and allotment of the fund to the petitioners. Meticulously perusal of the report it reveals that all the accused persons have completed their house as per the amount allotted by the Government for construction of their house under Indira Awaas Yojana scheme.
6. It is further candidly submitted that actually, dwelling house was incomplete, when the FIR lodged and charge sheet has been submitted against the petitioners but subsequently it was completed. Petitioners have utilized all the funds allotted to them for construction of their dwelling house save and except accused Arjina Bibi, Wife of Sk. Jakir Hossain owing to her death as such he left the matter to the discretion of the court.

7. Heard both sides and perusal of the report and material available in the record and in view of the above facts and circumstances, this court finds there is no question of defalcation or misappropriation of fund by the petitioner, when it is admitted facts that they have constructed dwelling house as per allotment of the fund. Fund was utilized by the petitioners for construction work. Therefore, if the proceeding is continuing, it would be a sheer abuse of process of law. Section 482 of the CrPC confers very wide power on the court to do justice and to ensure that the process of the court is not permitted to be abused.
8. In the light of the above observations, the proceeding of G.R. (E) Case No. 901 of 2014 under Sections 406/420/34 of the Indian Penal Code pending before the Court of the learned Additional Chief Judicial Magistrate, Contai arising out of Bhagwanpur Police Station Case No. 176 dated 30.12.2014 as well as the Charge Sheet No. 220 dated 24.12.2016 under Sections 406/420/34 of the Indian Penal Code is hereby stand quashed in respect of the 23 petitioners excluding accused Arjina Bibi, Wife of Sk. Jakir Hossain since case of the said accused gets abated. The orders passed in

the said proceeding by the Court below is in respect of 23 Petitioners also set aside.

9. Consequently, CRR 3793 of 2017 is, thus, allowed and the other connected application is also, thus, disposed of.
10. Let a copy of this order be communicated to the learned Court below for information.
11. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Ajay Kumar Gupta, J.)