

September 3, 2024
8 ARDR

CRR 5005 of 2023
CRAN 1 of 2024

Anup Paswan
Vs.
Prayag Raj Mittal

Adv. Indrajeet Dasgupta,
Adv. Puspita Bhowmick,

...for the petitioner.

Adv. Pratip Mukherjee,
Adv. Rahul Agarwal,
Adv. Arpit Agarwal,
Adv. Yashaswi Sunderiya

..for the O.P.

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

By consent of the parties, the revisional application is taken up for consideration along with the application, being CRAN 1 of 2024.

Heard learned counsels for the parties.

The petitioner seeks quashing of proceedings of complaint case no. C.S. 84771 of 2023 pending before the learned Metropolitan Magistrate, 11th Court, Calcutta (presently redesignated as learned Judicial Magistrate, 11th Court, Calcutta).

Learned counsel for the petitioner submits that there was a business transaction between the parties in course of which the complainant supplied bitumen, bitumen emulsion, fuel oil and other allied products to the petitioner in lieu of which part payment was made by the petitioner. However, the petitioner failed to make payment of Rs.3,04,139,94 for which the complaint was lodged. The only allegation made out against the petitioner in the complaint is

that the petitioner failed to pay the said amount to the opposite party and also did not respond to the demand notice issued by him.

Upon consideration of the submission made on behalf of the parties as well as material on record, this Court is of the view that no case under Sections 406/420/34 of the Indian Penal Code has been made out against the petitioner and the complaint can at best be termed as a breach of contract in view of non-payment of the residual amount by the petitioner.

In absence of any material whatsoever against the petitioner as appears from a bare reading of the complaint itself, this Court is inclined to hold that allowing the proceeding to continue shall be an abuse of process of the Court.

Accordingly, the revisional application, being CRR 5005 of 2023 is allowed.

Proceedings of complaint case no. C.S. 84771 of 2023 pending before the learned Metropolitan Magistrate, 11th Court, Calcutta (presently redesignated as learned Judicial Magistrate, 11th Court, Calcutta) is quashed.

Consequently, the application, being CRAN 1 of 2024 is disposed of.

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

(Suvra Ghosh, J.)