

02.

05.12.2025

Bd.

Ct. 29

CRR 1653 of 2023

Smt. Subhashree Das Chakraborty & Anr.

Vs.

State of West Bengal & Anr.

Mr. Loknath Paul

Mr. Debasish Chattopadhyay

Mr. Tirthankar Basu

... for the petitioners.

Mr. Bitasok Banerjee

... for the State.

The petitioners herein have challenged the impugned proceeding being FIR No. 682 of 2022 presently pending before learned Additional Chief Judicial Magistrate, Kalyani.

The opposite party no. 2 being the full blooded brother of the petitioner no. 1 and the brother-in-law of petitioner no. 2 lodged a complaint wherein it is alleged that the petitioner no.1 and petitioner no. 2 forged the signature of opposite party no. 2 on a stamp paper in respect of a leasehold property and thereby tried to deprive the opposite party/complainant from his legitimate share. His further allegation is that both the petitioners after forging signature of the opposite party no. 2 prepared a document for transferring the leasehold right title and interest exclusively in their favour, which was submitted before the office of the Estate Manager, Kalyani. After completion of investigation police submitted charge sheet on the basis of statement of witnesses.

Learned counsel for the petitioners submits that the defacto complainant in his written complaint never mentioned any name of such witnesses and the statement recorded under section 161 of the Cr.P.C. during investigation also does not disclose any offence against the present petitioners.

He further submitted that the property being B-1/368 Kalyani is a leasehold property and it was originally recorded in the name of Panchu Gopal Chakraborty since deceased and during his lifetime it was leased for 999 years by the Government of West Bengal. After his demise, the aforesaid property was mutated in favour of petitioner no. 1 and opposite party no. 2 on 4th July, 2020. Wife of Panchu Gopal Chakraborty pre-deceased him. Therefore, from the facts and circumstances of the case it is apparent that no document was suppressed and nothing was attempted to forgo the right of defacto complainant in the aforesaid property as in connection with the said death mutation order, both the parties submitted their respective affidavits duly sworn before Judicial Magistrate and both the parties submitted joint application before the authority, which the investigation agency did not consider. The petitioner no. 1 submitted an affidavit before the office of the Estate Manager Kalyani on 7th July, 2019 being the lessor in respect of the plot in issue and in the said affidavit both petitioner no. 1 and defacto complainant put their respective signatures. The Investigating Officer has seized all the documents but no investigation was done to substantiate that the signature of the opposite party no. 2 appearing on the said document was forged. I.O. even did not collect any document from the office of the Urban Development to substantiate the offence alleged against the petitioners. The ingredients of the offence mentioned in section 468/465/471/34 is conspicuously absent in the present case. The complainant also failed to produce any document wherefrom it will be transpired

that the petitioners forged any document or had manufactured any document. In such circumstances, if the proceeding is continued any further it will be a mere abuse of the process of the court.

Learned counsel for the State placed the case diary and submits that during investigation police has recorded statement of only three witnesses and thereby he leaves the prayer for petitioners to the discretion of the court.

Having heard learned counsel for the petitioners and also materials collected during investigation, I find that the prosecution has seized the affidavit written on the stamp paper but it was neither sent for forensic examination nor there is anything to show that the signature of opposite party no. 2 appearing in the said document is forged one. During investigation the prosecution recorded statement of three witnesses who did not say anything that may attract the ingredients of the offence mentioned in the charge-sheet. A bare perusal of complaint and the statements recorded during investigation would show that it does not contain any ingredients of the offences alleged. The condition for forgery is making a false document which could not be substantiated during investigation, nor could it be established that either of the petitioners have committed any forgery. It is well settled that judicial process should not be an instrument of oppression or needless harassment.

In the circumstances,, I find that the continuation of criminal proceeding pending against the present petitioners will be sheer

abuse of the process of the Court. Therefore, I find sufficient material to invoke the inherent jurisdiction under section 482 Cr. P.C. so as to quash the proceeding.

In such view of the matter, CRR 1653 of 2023 is allowed.

The impugned proceeding being Kalyani P.S. 682/22 dated 08.12.22 pending before learned Additional Chief Judicial Magistrate, Kalyani is hereby quashed.

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

(Dr. Ajoy Kumar Mukherjee, J.)