

CRR 2645 of 2017

Dibyendu Bhattacharjee @ Bhattacharyya

Vs.

The State of West Bengal & Anr.

Mr. Joydeep Roy
Mr. Dattatreya Dutta

... ... for the State

1. The learned advocate for the State is present. None appears on behalf of the parties, nor is any accommodation prayed for on the date of hearing.
2. A report dated 31st October, 2025, was submitted by the concerned department, confirming that G.R. No. 1354 of 2011 remains pending before the Court of the learned Judicial Magistrate, 3rd Court, Sealdah, since 2017.
3. This instant Revisional Application, filed under Sections 401 and 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), is directed against the order dated 11th July, 2017, passed by the learned Additional Chief Judicial Magistrate, 3rd Court, Sealdah, South 24 Parganas, whereby the learned Court rejected the petitioner's prayer for discharge in connection with G. R. No. 1354 of 2011.
4. The underlying case, being Cossipore Police Station Case No. 86/2011 dated 27th May, 2011, led to the filing of Charge-sheet No. 148/2011 dated 27th

October, 2011, primarily under Section 120B/420 of the Indian Penal Code and Section 13B of the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993.

5. The essence of the complaint, filed by one Amit Kumar Jana, rests upon the allegation that the petitioner, acting as a developer along with others, entered into an agreement to sell a flat measuring 860 square feet at 33/1A, B.T. Road, Kolkata-700002. Despite receiving the major part of the consideration amount (Rs. 7,00,000/-), the developers allegedly failed to:

- a) Complete the construction and allied works of the premises.
- b) Obtain the mandatory Clearance Certificate (CC) from the Kolkata Municipal Corporation (KMC).
- c) Appear before the Additional District Sub-Registrar, Dum Dum, on the agreed date (9th March, 2011) for the registration of the flat, thereby causing substantial financial loss to the complainant.

6. The Court has perused the impugned order dated 11th July, 2017. The learned Chief Judicial Magistrate, 3rd Court, Sealdah, rejected the application for discharge dated 12th June, 2017,

after taking into consideration the materials available on record and applying the principles governing the power of a Magistrate to discharge an accused, as provided under Section 239 of the Cr.P.C. The order correctly relied upon established judicial precedents (notably those cited as 1979 CRR. L.J. 154 and 212 CRI.L.J. 2649).

7. The essence of the Magistrate's jurisdiction at the stage of framing charge/considering discharge is to determine whether a *prima facie* case exists against the accused. It is not an inquiry into the ultimate guilt or innocence.
8. Upon a careful consideration of the revisional application, the annexed documents, and the detailed charges leveled against the petitioner, this Court is of the considered view that the learned Magistrate has rightly applied the judicial mind to the facts and the materials collected during the investigation, which led to the framing of charges against the petitioner.
9. I do not find any element of irregularity, illegality, or impropriety in the impugned order dated 11th July, 2017, which would warrant the intervention of this Court in its inherent or revisional jurisdiction under Sections 401/482 Cr.P.C. at this preliminary stage of the trial.

10. The revisional application, being devoid of merit, is liable to be dismissed.
11. Accordingly, the instant Criminal Revisional Application is dismissed.
12. There shall be no order as to costs.
13. The connected application, if any, stands disposed of.
14. Any interim order granted earlier in this proceeding stands vacated.
15. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Uday Kumar, J.)