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CRR 3198 of 2023

**Shri Gopal Chaki @ Gopal Kumar Chaki & Anr.
Vs.
The State of West Bengal & Anr.**

Mr. Bibaswan Bhattacharya
Ms. Bindia Paul ...for the Petitioners.

Mr. Imran Ali
Ms. Debjani Sahu ... for the State.

This is an application wherein petitioners have prayed for quashing of the entire proceedings in connection with Sonarpur Police Station Case No. 421 of 2018 dated March, 18, 2018 corresponding to G.R. Case No. 1535/18 presently pending before learned Additional Chief Judicial Magistrate, 1st Court, Baruipur.

Petitioners contended that the present petitioners had jointly purchased certain plots of land from the erstwhile owner by dint of a registered purchase deed dated 27th May, 2011 for valuable consideration. Since the purchase, the petitioners are in peaceful possession and occupation of the said property.

On August, 30, 2012, M/s. Amrit Project Limited, through its men and agents tried to intrude into the said purchased land of the petitioners denying and disputing their right, title and interest over the property and claiming that they have purchased the said property by virtue of two purported deeds of sale dated 21st September, 2007 and May 2, 2008.

Such incidents compelled the petitioners to file the suit for declaration and permanent injunction before the Civil Court being

Title Suit No. 208 of 2012, against M/s. Amrit Projects Limited and they obtained injunction order in the said suit.

It is further submitted that said suit finally disposed of in favour of the petitioners whereby the competent civil court has declared petitioners right, title, interest and possession over the said property. During pendency of the said suit M/s. Amrit Projects Limited and its Directors fraudulently and dishonestly sold out a portion of the said property to the complainant herein, in spite of having no right, title and interest whatsoever therein. The petitioners herein therefore were constrained to institute another suit for declaration and permanent injunction against the de-facto complainant/opposite party no. 2 herein being Title Suit no. 212 of 2018 and in said suit also the petitioners herein obtained an injunction order against opposite party no. 2/complainant restraining them from disturbing the peaceful occupation and possession of the present petitioners over the said disputed property.

In the above backdrop the complainant/opposite party no. 2 herein had lodged this frivolous complaint against the present petitioners and on the basis of said complaint police has started investigation under sections 420/467/468/447/427/120B of the Indian Penal Code. After completion of investigation police has also submitted charge-sheet under the above-mentioned sections.

Being aggrieved by the said impugned proceeding, petitioners contended that they are the bonafide owners of the property and the opposite party no. 2 herein never acquired any right title or interest over the said property and as such even if there is any

dispute between the parties that must be a civil dispute in which the complainant herein has tried to give a colour of criminality.

He further submits that the assertion or allegation made in the complaint even if taken on their face value does not constitute any criminal offence and the court below without applying judicial mind has taken cognizance upon the offence mentioned in the charge-sheet. He further submits that with a malafide intention, the opposite party no. 2/complainant herein have falsely implicated the petitioners and if further proceeding is allowed to be continued, that will be mere abuse of the process of the Court.

De-facto complainant/opposite party no. 2 is not represented.

Learned counsel appearing on behalf of the State placed the case diary and leaves the matter to the discretion of the Court.

I have considered the submissions made by the parties. On perusal of the FIR it appears that the dispute mentioned therein is purely civil in nature and does not constitute the ingredients for the offence as alleged.

I have also gone through the materials in the case diary and I find that witnesses who are examined during investigation under section 161 of the Cr.P.C. have only expressed their doubts as to whether the petitioners herein have earlier lawfully purchased the property from the erstwhile owners or not and no further allegations either of cheating or of criminal breach of trust or forgery have been alleged against the petitioners.

Here the main offence alleged by the complainant is that the petitioners claiming ownership over the property by dint of forged purchase deed. However it appears that a competent Civil Court

has already declared petitioner's right title interest in the suit property against vendor of the complainant / opposite party herein and another civil suit brought by petitioners herein against complainant herein with a prayer for declaration of petitioner's right title interest in the property in question is also pending against complainant / opposite party herein. So the dispute is not only civil in nature but also petitioner's right title interest in the disputed property has already been declared by a competent civil Court, which is not in dispute in the present proceeding. The entire idea of complainant therefore seems to be to convert alleged civil dispute into criminal and to put pressure upon the petitioner to compel him to leave the property. Apex Court has time and again reminded that criminal proceedings are not short cut of other remedies available in law. Here the investigating agency has done their job in a mechanical way and without going into the merit of the dispute has filed perfunctory charge-sheet. I do not find any criminal element from the four corners of the available materials.

This application therefore is liable to be allowed as the continuance of further proceeding of the instant case would be sheer abuse of process of Court.

Accordingly, CRR 3198 of 2023 is allowed.

The entire proceeding in connection with Sonarpur Police Station Case No. 421 of 2018 dated March 18, 2018 corresponding to G.R. Case No. 1535 of 2018 presently pending before the learned Additional Chief Judicial Magistrate, 1st Court, Baruipur stands quashed.

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

(Dr. Ajoy Kumar Mukherjee, J.)