

23.06.2026

Court No.34

S/L.7

sg

CRR 2705 of 2023

In the matter of : **Snehasish Bose**

Petitioner.

Mr. Amitabha Ghosh

Ms. Arpita Paul Biswas

...for the petitioner.

Mr. Sibojyoti Chakraborti

...for the O.P.No2.

1. This application has been filed under Article 227 of the Constitution of India for quashing of the judgement dated 31st May, 2023 passed by the learned additional District and Sessions Judge, 2nd Fast Track Court, City Sessions Court, Bichar Bhavan, Calcutta in connection with the criminal revisional case no. 124 of 2020 arising out of order dated 13.3.2020 passed by the learned Additional Chief Metropolitan Magistrate Calcutta in complaint case no. C-35 of 2020 under Sections 268/269/278/285/286/34 of the Indian Penal Code 1860.

2. At the outset it is submitted that this inadvertently application has to be filed under Section 482 Cr.P.C. corresponding to Section 528 of the BNSS.

3. It is submitted by the learned advocate that present petitioner being frustrated with the unauthorized running of

workshop by the opposite party no.2 which is adjacent resident and runs manufacturing unit of preparing in cardboard boxes by installing commercial machine without having any trade license permission from the competent authority. He made various complaints with the various administrative authorities and in response to the same he received intimation through RTI information which clearly supports the case of the petitioner. The present petitioner therefore lodge a complaint under Section 153 of Cr.P.C. before the Additional Chief Metropolitan Magistrate Calcutta, for commission of offence under Sections 268/269/278/285/286/34 of the Indian Penal Code 1860.

4. Learned Magistrate vide order dated 25.2.2020 directed to the Officer-in-charge, Jorabagan Police Station to conduct preliminary enquiry to send a report to the learned Magistrate as to whether, any specific case has started on the basis of the complaint of the petitioner. In connection with the said order and enquiry officer filed a report alleging that opposite party no.2 is running cardboard manufacturing workshop and allegedly having trade license issued by the KMC for such manufacturing and for godown cum stock and selling and industrial electric permission from CESC as well as consent certificate from the Pollution Control Board for running said business.

5. Enquiry Officer did not find any illegally for running such business. Petitioner prayed for leave before the learned Magistrate to file application for taking exception of the said purported report

by the enquiry officer on the grounds that the purported report either has been filed mala fide or on the basis of certain false and forged documents.

6. It is further alleged before this Court by the learned advocate that the opposite party no.2 suo moto appeared before the learned Court and supported the contents when the petitioner being complainant challenged the locus of the opposite party no.2 to take part in the said proceedings. However, learned Magistrate by order dated 13.3.2020 on the basis of such report filed by the enquiry officer as well as argument advanced by the learned counsel appeared on behalf of the opposite party no.2 dismissed the case and also imposed cost of Rs. 5,000/- to the petitioner. Challenging the same revisional application was filed before the learned Additional District & Sessions Court, 2nd Fast Track Court, City Sessions Court, Bichar Bhavan, Calcutta which was subsequently assigned before the learned Additional District & Sessions Court, 2nd Court for final adjudication and for hearing both the learned counsel revisional Court affirming the order passed only to extent of waiving of fine of Rs. 5,000/- which was directed to be paid by the defacto-complainant/petitioner to DLSA, Kolkata within one week.

7. Being aggrieved thereby this revisional application has been filed for setting aside such order passed by the learned revisional court as well as affirming order passed by the learned Magistrate.

8. Learned advocate representing opposite party no.2 on the contrary submits that the learned Magistrate passed an order after

being specific report furnish before the Court which did not support any contention as well as allegation leveled against the opposite party no.2 either petitioner running said manufacturing unit unauthorisedly or illegally. Enquiry report clearly revealed that documents of trade licenses, electric permission in support of him. On the basis of such he was running such business. It is further submitted that application taken by the learned advocate of the petitioner that he was not given an opportunity of hearing. It is absolutely mala fide as the order passed by the learned Magistrate clearly depicts that after considering the both the counsels such order was passed. That too learned court waived the fine of Rs. 5,000/-. Hence nothing remains further for adjudication by this Court and this revisional application should be dismissed in limine.

9. Having heard the both the learned counsels and going through on record, it transpire dispute originated as the opposite party no.2 was allegedly running a manufacturing unit cardboard box. Specific allegation of the petitioner was regarding the pollution regarding air and noise being a residential unit for which he was suffering a lot. Complaint lodged by the petitioner was under Section 156 Clause 3 without specifying that since when the manufacturing unit was running by the opposite party no.2.

10. Petitioner also lodged a complaint before the West Bengal Pollution Control Board and after hearing both the parties direction is given West Bengal Pollution Control Board to the accused not to continue manufacturing activity until and unless manufacturing

license from the KMC and other statutory license being required to obtain direction is also given to the officer- in-charge, Jora Bagan Police Station to oversee the balance of the said order. The said order was passed in the year, 2019 according to the petitioner no step was taken by the opposite party no.2 are allowed to such report unauthorisedly after complaint was lodged in the year, 2020. Enquiry report preliminary suggests that such trade license, electric permission was obtained which may be outcome that order which he applied and subsequently obtained further to that extent. However, clarification is passing either in the year or in the complaint by the petitioner. Learned Magistrate while passing the order duly considered report furnished by the enquiry officer and also objection raised by both the petitioner as well as opposite party no.2 which clearly is apparent from the order passed by the learned Magistrate.

11. "This Court has considered the submission of both sides and has scrutinized the report as well as the documents annexed". That apart report also suggested that in course of enquiry officer did not find any oven being used by the accused persons and two machines were kept inside whether the lamination manufacturing unit at that point of time. Therefore, learned revisional court considering that aspect of the matter was of the view that there was no illegality order passed by the learned magistrate only considered the cost of Rs. 5,000/- and accordingly passed the order to waive the same.

12. The stand of the petitioner that he was not given any opportunity of hearing do not find any place from the order

impugned and immediately thereafter no such objection was raised from the concerned Magistrate for recording to that extent when he made no submission.

13. Therefore, considering all the factors and that the learned Magistrate duly considered all aspects of the matter only thereafter passed order impugned which was further considered by the learned revisional Court.

14. This Court do not find any illegality in the order passed by the learned revisional Court. So far, observation of the learned Magistrate for intentionally filed baseless and frivolous complaint for which petitioner has expressed his apprehension as a defamation proceeding has been initiated this Court expressed that Court could have refrain for making such word 'intention' in the said order hence considering the above, this Court do not find any reason to interfere any order impugned excepting that word 'intention' used in the order passed by the learned Magistrate be considered as expunged.

15. Accordingly revisional application being CRR 2705 of 2023 is dismissed.

16. Parties are to act on server copy of this order duly downloaded from the official website of the Calcutta High Court.

[Chaitali Chatterjee (Das), J.]