

06.08.2024
rc/ct.no.34
Item No.25

CRR No. 3314 of 2024

In the matter of : Basant Kumar Parakh & Ors.

.....Petitioners

Mr. Sandipan Ganguly
Mr. Dipanjan Dutt
Mr. S. Dutt Majumder
Mr. Souvik Ganguly

...for the Petitioners

Mr. Jayabrata Basu Ray

...for the O.P.No.2

The private opposite party is represented. Copy of the application along with annexure thereto is furnished upon the learned counsel for the private opposite party in Court this day.

Heard learned counsels for the parties.

The petitioners seek quashing of the orders in Case No. C/16/2024 by the learned Chief Metropolitan Magistrate, Calcutta and further seek stay of investigation of the case which is in progress.

Learned counsel for the petitioners submits that an application under Section 156(3) of the Code of Criminal Procedure was filed by the private opposite party pursuant to which a preliminary enquiry was directed by the learned Trial Court. Upon such enquiry, a report was submitted by the Sub-Inspector of New Market Police Station stating that there is a long standing civil dispute between the parties and the alleged deed was found to be genuine. As such, the allegations made by the

private opposite party were found to be baseless. Upon perusal of the enquiry report, the case being C/117/23 was dismissed by the learned Trial Court. Thereafter another application was filed by the private opposite party praying for a fresh report from the Investigating Officer upon taking into consideration certain documents which were obtained by him subsequently. A fresh report was called for by the learned Trial Court upon holding preliminary enquiry and such report was submitted by the Police stating that the dispute was purely civil in nature and the allegations made by the private opposite party were not substantiated. A further application was made by the private opposite party praying for a direction upon the Investigating Officer to file a fresh report upon taking into consideration the documents further obtained by him. A fresh enquiry was held and this time, it was reported that the offences may have been committed and are cognizable in nature and require further thorough investigation.

Learned counsel for the petitioners submits that subsequent applications were barred under Section 362 of the Code of Criminal Procedure and the learned Magistrate could not have taken cognizance of the same. Consideration of the subsequent applications and registering a fresh case after disposal of an earlier case containing identical allegations are not enjoined in law.

Learned counsel for the petitioners seeks stay of the investigation till the matter is considered upon hearing the parties.

Learned counsel for the private opposite party vehemently opposes the said prayer. Learned counsel makes submission on merits of the case which shall be considered by this Court when the matter is taken up for consideration.

It appears on perusal of the material on record that the petitioners have been able to make out an arguable case.

Let this matter appear under the heading “Contested Application” on September 27, 2024.

Further investigation in connection with the New Market Police Station Case No. 62 of 2024 dated May 07, 2024 be stayed till November 30, 2024 or until further orders, whichever is earlier.

The petitioners are directed to serve copy of the application along with annexure thereto upon the State and file affidavit of service on the adjourned date.

(Suvra Ghosh,J)