

**Criminal Revision**

Present: **The Hon'ble Justice Ashim Kumar Roy**

**CRR No. 2628 of 2009**

**With**

**CRAN 693 of 2010**

**Judgment On: 07.04.2010**

**Sri Abani Mohan Ghosh & Ors**

**Vs.**

**The State**

**POINTS:**

QUASHING-Pendency of civil suits whether a ground for quashing a criminal proceeding- Indian Penal Code Ss. 147/447/427/379 -Code of Criminal Procedure, 1973 S.482

**FACTS:**

The petitioners have moved this Court for quashing of a case instituted on a complaint relating to the offence punishable under Sections 147/447/427/379 of the Indian Penal Code. It is alleged that the allegations are absolutely false; several suits are pending by and between the parties; in the complaint, factum of pendency of the civil suits has been suppressed and the dispute is civil in nature.

**HELD:**

None of the grounds on which the petitioners have sought for quashing of the complaint is tenable in law. Whether the allegations are true or false is a matter that can only be decided in trial on evidence. Moreover, pendency of the civil suits by and between the parties over some other issue cannot be an impediment in the continuation of a criminal proceeding. Para-4

In re:

Sri Abani Mohan Ghosh & Ors ... Petitioners/applicants

Mr. Satyajit Mandal

Mr. Suranjan Mandal ... for the petitioners/applicants

Mr. Swapan Kumar Mullick ... for the State

**THE COURT:**

1. Both the Criminal Revisional Application, namely, CRR No. 2628 of 2009 and the application for stay being CRAN 693 of 2010 are taken up for hearing together.

2. Heard Mr. Satyajit Mandal, Learned Counsel, appearing for the petitioners with Mr. Suranjan Mandal, and Mr. Swapan Kumar Mullick, Learned Counsel, appearing for the State. In spite of repeated calls, none appears on behalf of the complainant/opposite party no. 2.

3. Invoking Section 482 of the Code of Criminal Procedure, the petitioners have moved this Court for quashing of a case instituted on a complaint relating to the offence punishable under Sections 147/447/427/379 of the Indian Penal Code. The Learned Counsel for the petitioners urged the following points in support of the prayer for quashing:

- a) The allegations are absolutely false;
- b) Several suits are pending by and between the parties;
- c) In the complaint, factum of pendency of the civil suits has been suppressed and
- d) The dispute is civil in nature.

4. None of the grounds on which the petitioners have sought for quashing of the complaint is tenable in law. Whether the allegations are true or false is a matter that can only be decided in trial on evidence. Moreover, pendency of the civil suits by and between the parties over some other issue cannot be an impediment in the continuation of a criminal proceeding.

5. Moreover, having gone through the content of the impugned complaint, it cannot be said that no offence has been made out.

6. This criminal revision has no merit and accordingly stands **dismissed**.

7. In view of dismissal of the main Criminal Revisional Application, the application for stay being CRAN 693 of 2010 also stands *dismissed*.

8. Criminal Section is directed to supply the urgent Photostat certified copy of this order to the parties, if applied for.

*(Ashim Kumar Roy, J.)*

*p.j.*

