

Case Snippets

Volume 03, Number 12 (March 23, 2020)

India Infoline Finance Limited & Anr. Vs. The State of West Bengal & Ors.

Section 14 of IBC read with section 41 A of CrPC and Sections 120(b)/420/406/24 of IPC

The question before Hon'ble High Court, in this matter, was whether a criminal proceedings be initiated on similar grounds for which CIRP is under process.

Present petitioner-complainant moved to High Court to resolve his grievance that the police has refused to act on the FIR against the private respondents, taking shelter of CIRP pending in connection with the company in question.

In a similar matter earlier it was held, by co-ordinate bench of same High Court that "it appears that the said declaration of moratorium does not prohibit continuation of criminal proceedings against the company or its directors".

The police served a notice under Section 41A of the CrPC on the respondent- accused and already, subsequent to registration of a FIR a police case was started, under Sections 120(b)/420/406/24 of IPC. Court observed that the affidavit-in-opposition filed by the police authorities shows that the police took sufficient steps in connection with the complaint lodged by the present petitioners-complainant.





Court held that although principally a moratorium under Section 14 might not, in certain circumstances, directly stop a criminal proceeding from going on, however, in this case, the police has done its level best up to the time when the moratorium started operating, and the order in connection with the CIRP was passed. Since any action of the police will have to be based on investigation on the subject matter of the transaction, which is directly within the purview of the CIRP, it is to be deemed that the police cannot take further steps in the matter unless and until the CIRP culminates, in a resolution or otherwise. In such view of the matter, the allegation, that the police are not taking sufficient steps on the complaint of the petitioners, cannot be accepted by this court.

Long established principle of law “that the special law will prevails over general laws” was followed in this matter.

