

27-04-2022
Subha
Item no.23
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 227 of 2015

In the matter of : **Nirmal Maloo**petitioner.

In Re : An application under Section 482 of the Code of Criminal Procedure.

Mrs. Subhasree Patel
Ms. Saini Das
....for the petitioner.

Mr. S. G. Mukherji, Id. PP,
Mr. Saryati Datta
....for the State.

The present revisional application has been preferred challenging the proceedings arising out of Hare Street Police Station Case No. 66 of 2013 dated 24.01.2013 under Sections 489B/489C of the Indian Penal Code.

The subject matter of this case relates to a deposit of Rs.3,00,000/- (Three lakhs only) being made at the cash counter of the Braborne Road Branch of Royal Bank of Scotland.

It has been alleged that a sum of Rs.3,00,000/- was deposited on behalf of M/s. Shree Gopal Shreelal of 201B, Mahatma Gandhi Road, 2nd Floor, Kolkata – 700007. In the cash counter of the bank it was found that out of the sum of Rs.3,00,000/- which was deposited by way of notes of different denominations, six notes of Rs.500/- denomination were found to be fake. Bank accepted the sum of

Rs.2,97,000/- and proceeded to complain in respect of the six Rs.500/- denomination which were found to be fake with Hare Street Police Station.

It is a fact that the subsequent report of the expert reveals that such notes were fake. However, the Investigating Agency in course of the investigation did not find any other fake currency from the possession of the petitioner, who happens to be the proprietor of M/s. Shree Gopal Shreelal or any antecedent.

The prosecution after completion of investigation has submitted chargesheet on the basis of the statement of two witnesses of the bank who had detected those six fake Rs.500/- denomination currency, the complainant on behalf of the Royal Bank of Scotland who informed the police station and the Investigating officer of the case. So far as the document which have been relied upon are the fake currency notes and the opinion of the expert along with the seizure list. Although some of the requirements of Sections 489B and 489C of the Indian Penal Code are satisfied in this case, yet I am of the view that the totality of the circumstances including the background of the case are to be checked. The money which was deposited with the bank authorities relate to the regular business transactions. The sum which was deposited is an amount of Rs.3,00,000/-and out of which the currency valuation was Rs.3000/- which was found to be fake by way of six fake currency of Rs.500/- denomination. No antecedents of the petitioner have been reported by the Investigating Agency and it was incumbent upon the Investigating Agency to assess a broader view of the situation in view of the business carried out by the

petitioner and its firm. There is every possibility of error of judgement of a business organization in accepting currencies from their customers while regularly carrying on their business activities.

I have also assessed the materials, which are appearing. The materials may theoretically adhere to the provisions but purposes for which the provisions were enacted is also to be considered. At the same time the mala fide of the person is also to be assessed. On these two issues i.e., error of judgement while accepting the currencies and mala fide, I am of the considered view that the petitioner should not be asked to face the ordeal of trial.

Accordingly, all further proceedings arising out of Hare Street Police Station Case No. 66 of 2013 dated 24.01.2013 under Sections 489B and 489C of the Indian Penal Code including the chargesheet filed therein is hereby quashed.

As such, the present revisional application being CRR 227 of 2015 is allowed.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

Interim order, if any, is made absolute.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]

