

17.09.2021

Item No.16
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 2244 of 2012
(Via Video Conference)

Anita Pai
versus
Sri Monodip Shome

In Re: An Application under Sections 397/401 read with Section 482 of the Code of Criminal Procedure.

Mr. Sandipan Ganguly, Sr. Adv.,
Mr. Amitava Mitra,
Mr. Dipanjan Dutt,
Ms. Antara Choudhury,
Ms. Sayani Bhattacharjee ... For the Petitioner.

The petitioner happened to be an Executive Vice-President of ICICI Prudential Life Insurance Company Ltd. prior to 31.03.2010 and has been implicated in connection with Complaint Case No. C-921 of 2012 pending before learned Judicial Magistrate, 7th Court, Alipore.

The grievance of the complainant is that the complainant was approached by the accused no.4 in the year 2007 for subscribing a policy being “Life Time Super Pension Policy” of ICICI Prudential Life Insurance Company Ltd.

The length and breadth of the complaint reflects that the grievance of the complainant is that he was misled in purchasing a policy wherein representation was made that single premium was to be paid, but subsequently the complainant came to know that number of premiums were to be paid.

The complainant being aggrieved, requested the Company to return the said amount which was invested and by an unsigned letter dated 16.08.2010, a cheque was sent to him. According to the complainant, because of misrepresentation, although he has invested a sum of Rs.5,00,000/-, the cheque amount which was refunded to him was of Rs.1,39,773.31. Further allegation of the complainant is that the value of the units under the said policy was Rs.5,59,093.24 and the Company has refunded a meagre sum of amount by way of cheque. The complainant alleges of misrepresentation and conspiracy amongst the officers and thereafter prayed for issuance of process under Sections 34/120B/406/420 of the Indian Penal Code.

On appreciation of the allegation made in the petition of complaint, the complicity of the present petitioner is reflected in paragraphs 4 and 11. In paragraph 2 of the petition of complaint, it has been categorically stated as follows :

“2. That during his stay in India he was approached by an agent of the accused No.1, Company posted in the office of the accused no.4, sometime in the year 2007 for subscribing a Policy which was termed as ‘LIFE TIME SUPER PENSION POLICY’ of the accused No.1, Company.”

The representation primarily, according to the aforesaid paragraphs, was by the accused no.4 for purchase of the policy and the consequences which may arise for purchase of the policy. So far as the role of other persons are concerned,

except the Company, the only allegation is that they had assured that the policy was not life covered.

Having regard to the fact that there was no allegation against the present petitioner for personally being benefited out of the transaction and had no occasion to explain the consequences of the manner of investment as to whether that is a single investment premium or number of premiums are to be deposited with the insurance company, I am of the view that the learned Magistrate should have been cautious while taking cognizance of the offence so far as the present petitioner is concerned. Further the narrations in paragraph 4 of the complaint are in the nature of subsequent clarifications and do not come within the ambit of initial deception which is one of the requirements of cheating.

Having regard to the present stage of the case, I am of the view that materials which have surfaced against the present petitioner do not inspire any confidence for the proceedings to be allowed to be continued against her.

Accordingly, the complaint case, so far as the present petitioner is concerned, i.e. Complaint Case No. C-921 of 2012 under Sections 420/406/120B of the Indian Penal Code pending before the learned Judicial Magistrate, 7th Court, Alipore, is hereby quashed.

However, if subsequent materials surface in course of trial, the learned Magistrate would be at liberty to issue process against the present petitioner.

Thus, the revisional application being CRR 2244 of 2012 is allowed.

Interim order, if any, is hereby made absolute.

All pending connected applications, if any, are consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)