

20.12.2021

Sl. No.17

Court No.35

BM

CRR/2122/2019

M/s. Jupitar Infocom Pvt. Ltd & Ors.

Vs.

The State of West Bengal & Anr.

(Via Video Conference)

Mr. Saumik Ganguli

Ms. Diptendu Banerjee

Ms. Sinthia Bala

... for the Petitioner

The matter is listed today as motion. Learned advocates for the petitioners is present and prays for admitting criminal revision under Section 401 read with Section 482 of the Code of Criminal Procedure praying for quashing of proceeding in complaint case No.1138 C of 2015 under Sections 138/141 of the Negotiable Instruments Act pending before the court of learned Judicial Magistrate, First Court at Howrah and order dated 27.11.2015 passed in complaint case No.1138 C of 2015.

It is submitted by the learned advocate for the petitioner that the petitioner no.1 is a registered Company under the provisions of the Companies Act and other petitioners are Directors of the said company and permanently reside at the given addresses. Petitioner no.2 and father of opposite party no.2 had business relation for long period. The petitioners took a loan accommodation from the father of the opposite party no.2 which he has already returned. On 22.07.2013 the opposite party no.2 along with some anti-social entered the office of petitioner no.2 and demanded money, which he

had already paid. It is further submitted that the opposite party no.2 and his men ransacked the office of the petitioner. They also obtained signatures of opposite party no.2 on some blank papers. The incident was diarised at Bidhannagar South Police Station but no step has been taken. The petitioner no.2 also filed a complaint under Section 156(3) of the Code of Criminal Procedure before the learned Additional Chief Judicial Magistrate, Bidhannagar on the basis of which a case has been initiated being Bidhannagar P.S. case no.09/14 dated 16.4.2014.

The contention of the petitioners herein is that a cheque bearing no.983566 dated 16.4.2015 amounting to Rs.2,50,00,000/- was purportedly drawn on ING Vysya Bank Ltd., Rash Behari Avenue Branch, Rash Behari Avenue, issued on behalf of the petitioner no.1 company in favour of opposite party no.2. The cheque was presented by the opposite party no.2 with his banker HDFC Bank, Howrah Branch for encashment but the same was returned on 17.04.2015 with an endorsement "Account Closed". The opposite party no.2 sent demand notice to the petitioner seeking payment but no such payment has been made till date. The opposite party has thereafter filed complaint case No.1138 C of 2015 against the petitioners under Section 138 and 141 of the Negotiable Instruments Act.

Learned advocate for the petitioners submit that no cheque can be issued of an amount of Rs.2,50,00,000/-. The story of the opposite party no.2 is frivolous. It is further contended that the opposite party men had ransacked the office of the petitioner and obtained their signatures on some blank documents, which they have converted

into such cheques. The petitioners have liability as such it is urged that the complaint under Section 138 of the Negotiable Instruments Act filed by the opposite party no.2 should be quashed.

Learned advocate for the petitioners prayed for issuing notice upon the opposite parties in this matter.

I have considered submissions made on behalf of the petitioners. There is no embargo in the Negotiable Instruments Act suggesting that a cheque amounting to Rs.2,50,00,000/- cannot be issued or in such case on dishonour of such cheque no application under the Negotiable Instruments Act can be lodged by the payee. Therefore, these contentions of the petitioners hold no ground for admitting the application nor to issue notice upon the opposite party members.

The alleged incident of ransacking the office of the petitioners or obtaining the signature by the opposite party no.2 on some blank papers may be used by the petitioners as their ground of defence to rebut the presumption under Section 139 of the Negotiable Instruments Act at the time of trial of the complaint case. Such statements may be considered by the learned Magistrate in accordance with the provisions of law.

I find no merit or prima facie case to admit this criminal revision. Accordingly, CRR 2122 of 2019 is not admitted and the criminal revision is disposed of.

(Ananda Kumar Mukherjee, J.)