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C.R.R. No.3163 of 2019
IA No. CRAN 1 of 2020
(Via Video Conference)

In Re: An application under Section 482 of the Code of Criminal
Procedure, 1973.

Lakshman Prasad Agarwal @ Laxhman Prasad
Agarwala & Anr.

Versus

The State of West Bengal and Anr.

Mr. Sekhar Basu,
Mr. Ranadeb Sengupta,
Mr. Sachit Talukdar.
...for the petitioners.

Mr. Apalak Basu,
Mr. Abhijit Sarkar,
Ms. S. Seth.
...for the opposite party no.2.

Mr. Swapan Banerjee,
Ms. Purnima Ghosh.
...for the State.

The revisional application has been preferred challenging the further continuance of proceedings arising out of Belur Police Station Case No.26 of 2019 dated 14.02.2019 under Sections 420/34 of the Indian Penal Code pending before the learned Chief Judicial Magistrate, Howrah.

Mr. Sengupta, learned advocate appearing for the petitioners submits that the First Information Report as well as the charge-sheet prima facie fails to make out any case for framing any charge under Sections 420/34 of the Indian Penal Code. To that effect, learned advocate draws the attention of this Court to the

relevant allegations made in the F.I.R. as well as the charge-sheet.

Mrs. Ghosh, learned advocate appearing for the State submits a report.

Let the report be kept with the record.

Learned advocate for the State draws attention of this Court to the case diary.

I have perused the charge-sheet so submitted by the investigating agency. Apart from the documentary evidence relied on or collected in course of investigation, six witnesses have been relied upon by the prosecution. They are, Uttam Kumar Singh, C.S.W.1, Sanjoy Thakur, C.S.W.2 and Asit Das, C.S.W. 3. The rest of the three witnesses happen to be associated with the police department.

Mr. Apalak Basu, learned advocate appearing for the opposite party no.2 submits that as the police authorities on completion of investigation has submitted charge-sheet, the court at this stage should not interfere as materials are appearing against the petitioners and the settled principles of law deter the High Court from ordinarily terminating a proceeding once the charge-sheet has been submitted.

I have perused the allegations made in the FIR and I have appreciated the same on the anvil of the allegations made against both the petitioners, who are before this Court. So far as the First Information is concerned, the thrust of the allegation is against the directors of M/s. PM Cold Storage Private Limited. However, at the last paragraph of the complaint, the names of the individuals, namely, Laxman Prasad Agarwal and Neha Agarwal have been

implicated on the foundation that they have mala fide intention as directors of M/s. PM Cold Storage Private Limited to deceive the complainant.

I have perused the statements of the three witnesses referred to above and the documents, which have been collected by the investigating agency. The statement of CSW1 do not elaborate on any issue except the complaint, so far as the CSW 2 and CSW 3 are concerned, the term is referred to as “owner” of PM Cold Storage Private Limited. The documentary evidence so collected relates to the cheque, which has been signed by Lakshman Prasad Agarwal, being the petitioner no.1 before this Court.

On an overall consideration of materials available before this Court after submission of the charge-sheet, prima facie it appears that although the petitioner no.2 was named in the FIR as an individual associated with the company’s business activities, but nothing surfaced in course of investigation against her. Far less there is no corroborative evidence in respect of the allegations in the FIR so far as the mala fide intention is concerned, the same distinguishes the petitioner no.2 from the petitioner no.1 who had been signatory of the cheque, which has been dishonoured. In fact, to that effect, the statement of the CSW 2 and CSW3 also corroborate to some extent.

As the case is presently posted for taking cognizance on the charge-sheet, which would be filed before the jurisdictional court, I am reluctant to discuss in detail regarding further merits of the case. However, on scrutiny and assessment of the materials,

this Court is of the opinion that the proceedings so far as the petitioner no.2, Neha Agarwal is concerned should not be allowed to continue and, as such, the prayer for quashing of the proceedings relating to Belur Police Station Case No.26 of 2019 so far as it relates to petitioner no.2, namely Neha Agarwal is concerned is allowed.

Learned Magistrate is directed to take cognizance of the offence so far as the petitioner no.1 is concerned and proceed to the next stage after supplying of copies of Section 207 of the Code of Criminal Procedure to the stage for consideration of the charge.

Accordingly, CRR 3163 of 2019 is allowed in part.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

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

(Tirthankar Ghosh, J.)