

CRR 3288 of 2018

**Ujjal Chatterjee
Vs.
State of W. B. & Anr.**

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973 in connection with C. G. R. Case No. 1637 of 2013 pending before the learned Judicial Magistrate, 6th Court, Alipore, South 24 Parganas arising out of Tollygunj Police Station Case No.122/2013 dated 30.03.2013 under Sections 418/420/406/120B of the Indian Penal Code.

**Mr. Ujjal Chatterjee
..... Petitioner (In Person)
Mr. Ranabir Roy Chowdhury
Mr. Mainak Gupta
.....For the State**

The present revisional application has been preferred challenging the proceedings being C. G. R. Case No. 1637 of 2013 (arising out of Tollygunj Police Station Case No. 122 of 2013 dated 30.03.2013) presently pending before the learned Judicial Magistrate, 6th Court, Alipore under Sections 418/420/406/120B of the Indian Penal Code.

The petitioner approached at a stage when the application of the petitioner for discharging him from the case was rejected by the learned Magistrate by order dated 30.07.2018.

The crux of the allegations relates to a dispute wherein the complainant has alleged that the petitioner along with his two sisters entered into a criminal conspiracy and pursuant to which by way of false representation induced the complainant company to part with a sum of Rs. 29 lakhs with promise to transfer their shares in respect of the property but in reality neither they

transferred their part of the shares to the complainant company nor refunded the sum lying entrusted with them. On completion of investigation the police authority submitted charge sheet under the aforesaid Sections. Thereafter documents under Section 207 of the Cr. P. C. on which the prosecution intended to rely were supplied to the accused persons and the present petitioner thereafter prayed for discharge.

The petitioner appearing in person is aggrieved by the order dated 30.07.2018 passed by the learned Magistrate thereby refusing to discharge him from the case. Although no materials were collected against him in course of investigation.

Mr. Ranabir Roy Chowdhury, learned advocate appearing on behalf of the State draws the attention of this court to the statements of four of the witnesses, namely, Zakir Hossain, Birendra Mishra, Sourav Agarwal, and Yogesh Dassani. The nature of the statements so recorded by the Investigating Officer is similar wherein the allegation is that the present petitioner accepted Rs.9 lakhs in cash although in the case diary documents in respect of other accused persons are available but except the aforesaid statements under Section 161 of the Code of Criminal Procedure no other material is available.

On repeated query from the court on instructions from the Investigating Officer, the learned advocate for the State could not show a scrap of paper regarding the receipt of Rs. 9 lakh in cash.

In view of the materials so collected by the Investigating Agency against the petitioner, I am of the opinion that at this

stage the proceedings against the petitioner should not continue. As such the order dated 30.07.2018 passed by the learned Judicial Magistrate, 6th Court, Alipore is set aside. The proceedings so far as the present petitioner before this court is concerned is quashed. However, the learned Magistrate will be at liberty to summon him, in case subsequent materials appear against him in course of trial. So far as the other accused persons are concerned, this court has not gone into the merits and the learned court would proceed against them.

Accordingly CRR 3288 of 2018 is allowed.

The Investigating Officer of this case is present. His further appearance is dispensed with.

(Tirthankar Ghosh, J.)