

15.12.2022

Item No.19

Ct.No.34

dc.

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

C.R.R. 64 of 2021

**Dipak Das
versus
State of West Bengal & Anr.**

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

Mr. Abhirup Chakraborty,
Mr. Tuhin Ganguly ... For the Petitioner.

Md. Anwar Hossain,
Ms. Benajir Hasna ... For the State.

Ms. Aparna Banerjee ... For the Opposite Party No.2.

The subject-matter of challenge in the present revisional application relates to continuance of the proceedings of Case No. C-824 of 2015 under Sections 14(1A), 14(1B), 14(2), 14(2A), 14A(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 pending before learned Judicial Magistrate, 1st Court, Barrackpore, North 24-Parganas.

The subject-matter of the case relates to non-payment of employees' share of P.F. contribution after deducting the same from the salary/wages of the employee for the months of October 2012, November 2012 and December 2012 aggregating to a sum of Rs.27,60,203/-. The petitioner has relied upon the Form DIR-12 available in the website of the Ministry of Corporate Affairs which reflects that the present

petitioner viz. Dipak Das was appointed on 02.05.2014 and ceased to be a Director on 27.05.2015.

In view of the aforesaid, it is submitted the petitioner was not a responsible officer during the period of October 2012, November 2012 and December 2012 in respect of which the Company has been held liable.

Learned advocate appearing for the Provident Fund Authorities/opposite party no.2 submitted that there may be materials which presently are not in possession, but may surface in course of the trial so far as the present petitioner is concerned.

However, having regard to the unimpeachable nature of document produced by the petitioner, I am of the opinion that for the present, continuation of the proceeding being Case No. C-824 of 2015 is unwarranted as there are no materials against him to be proceeded at this stage. Thus, the proceeding against the petitioner, Dipak Das is quashed subject to the fact that in case in future in course of the trial, the provident fund authorities are able to place any material, the learned Magistrate would invoke the provision of Section 319 of the Code of Criminal Procedure.

Accordingly, the revisional application being CRR 64 of 2021 is allowed.

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.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)