

14.11.2022

Item No.39
Ct.No.34
dc.

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

C.R.R. 140 of 2021

**Sri Gopal Prasad Singh
versus
The State of West Bengal & Anr.**

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

Mr. Debasis Kar,
Mr. Subhajit Chowdhury,
Mr. Arka Tilak Bhadra ... For the Petitioner.

Mr. Saibal Bapuli,
Mr. Arani Bhattacharyya ... For the State.

Mr. Phiroze Edulji,
Mr. Siddhartha Lahiri,
Mr. Debraj Dutta ... For the Opposite Party No.2.

The present application has been preferred against the order dated 19.10.2020 passed by learned Chief Judicial Magistrate, Barasat in connection with Barasat Police Station Case No. 361 of 2020 dated 07.08.2020 under Sections 168/420/506/34 of the Indian Penal Code. The investigating agency on conclusion of investigation has submitted charge-sheet before the jurisdictional court.

The summary of the alleged offence as is reflected from the application under Section 156(3) of the Code of Criminal Procedure and the documents collected by the investigating agency in course of investigation is to the effect that there was a business relationship in which transaction took place between the parties and it is the complainant who states that an excess amount of Rs.3,85,000/- has been paid and the accused, on demand, refused to repay the same.

Having regard to the nature of the allegations and the offences for which charge-sheet has been submitted, I am of the opinion that *prima facie* it reflects that there was no initial deception in the present case and the dispute and difference arose because of subsequent failure of refunding the excess amount. Accordingly, the charges under which the report under Section 173 of the Code of Criminal Procedure has been filed before the jurisdictional court are held to be not offences committed within the ambit of Indian Penal Code.

Mr. Edulji, learned advocate appearing for the opposite party no.2 submits that there are documents in his custody which would reflect that there was misappropriation as well as allurement made by the accused. In fact, according to the learned advocate, the bank statements and money receipts from the inception if placed would go to show that the accused utilized the innocence of the present complainant and with a malafide intention compelled him to incur loss.

Be that as it may, such documents are presently not appearing on records. As such, further continuance of the proceedings arising out of Barasat Police Station Case No. 361 of 2020 dated 07.08.2020 wherein charge-sheet has been submitted under Sections 168/420/506/34 of the Indian Penal Code is unwarranted. Accordingly, the said proceedings are quashed.

The revisional application being CRR 140 of 2021 is, thus, allowed.

Having regard to the submission of Mr. Edulji recorded hereinabove in case the learned advocate is able to produce documents as referred to above and present an application in the nature under Section 200 of the Code of Criminal Procedure before the learned Chief Judicial Magistrate, Barasat, the learned Magistrate would consider the same and proceed in accordance with law.

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.)