

D/L 21  
April 27,  
2022  
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C.R.R. No.26 of 2015  
With  
CRAN 1 of 2016 (Old CRAN 4968 of 2016)

In Re: An application under Section 401 read with Section 482 of the  
Code of Criminal Procedure, 1973;

Sri Debabrata Pal  
Versus  
The State of West Bengal & Anr.

Mr. Tapas Ghosh,  
Mr. Tanmoy Chowdhury.  
...for the petitioner.

Mr. Binay Kumar Panda,  
Mr. Pravas Bhattacharya.  
...for the State.

Mr. Pinak Kr. Mitra.  
...for the opposite party no.2.

The present revisional application has been preferred challenging the proceedings arising out of Memari Police Station Case No.262 of 2012 under Sections 420/471/120B of the Indian Penal Code pending before the court of the learned Chief Judicial Magistrate, Burdwan.

The investigating agency after completion of investigation submitted charge-sheet against the present petitioner and three others.

The genesis of the case was on the basis of a complaint lodged by one Ramjan Khan. So far as the letter of complaint is concerned which was submitted with the Officer-in-Charge of Memari Police Station on or about 23<sup>rd</sup> July, 2012 the only

allegation against the present petitioner is that there were other persons involved also, who fled away and amongst them he heard that the present petitioner Bhaja Pal was also present.

The Investigating agency in course of investigation could associate the name of Bhaja Pal with the present petitioner Debabrata Pal and, as such, according to the investigating agency, Bhaja Pal and Debabrata Pal are one and the same person. To that extent, there is no dispute that the present petitioner is the same person who has been named in the charge-sheet. However, the police authorities in the charge-sheet has relied upon ten witnesses. Two of the witnesses namely CSW 7 and 8 have informed the police authorities that the present petitioner is associated with furniture business, he has also three wheeler vehicle and they have heard that he has been implicated in case of forgery of US Dollar. No other material is appearing against the present petitioner. The recovery was also not from the present petitioner. Neither the complainant had interacted with the present petitioner nor was any representation or deception made at the instance of the present petitioner. As such, it cannot be said that any incriminating material is appearing in the prosecution papers.

The petitioner has been falsely implicated in the instant case on the foundation of very weak suspicion, as such, until further material appears, I am of the opinion that the continuance of the proceedings against the petitioner is an abuse of the process of law.

Thus, all further proceedings arising out of Memari Police

Station Case No.262 of 2012 dated 23.07.2012 under Sections 420/471/120B of the Indian Penal Code including the charge-sheet submitted therein is quashed so far as the present petitioner is concerned. The proceedings would continue so far as the other accused persons are concerned.

However, if in course of evidence, materials surface against the present petitioner, the learned Magistrate or the trial court would be at liberty to invoke the provisions of Section 319 of the Code of Criminal Procedure.

Accordingly, CRR 26 of 2015 is allowed.

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.)**