

Court
No.33
Item 14
Ali & Sk
07.06.2022

CRR 115 of 2016

IA No: CRAN 1/2016 (Old No. :CRAN 1537/2016)

In the matter of:- **Ravi Shewakramani @ Ravi Shevakramani**

.....Petitioner

In Re: An application under section 482 of the Code of Criminal Procedure.

Mr. Pawan Kumar Gupta
Mr. Avadesh Kr. Rai
Ms. Sofia Nesar
Mr. Santanu Sett
.....for the petitioner.

Ms. Sreyashee Biswas
.....for the State.

Mr. Anirban Dutta
...for the opposite party no. 2.

The petitioner has filed the present revisional application seeking an order under Section 482 of the Code of Criminal Procedure relating to proceedings being Complaint Case No. 37875 of 2015 under Sections 406/420/120B of the Indian Penal Code pending before the learned Metropolitan Magistrate, 3rd Court, Calcutta.

The brief fact of the case is that the petitioner through his partnership firm namely '*Pragati Fashions*' gave certain orders for supply of Hosiery knitted fabrics by opposite party no.2-complainant. In relation to such supply of fabrics the opposite party no.2-complainant raised bills but the petitioner defaulted in clearing such bills so raised. On such allegation the opposite party no.2-complainant through its representative filed a petition of complaint before the learned Chief

Metropolitan Magistrate, Calcutta registered as CS 37875 of 2015. The said Magistrate took cognizance of the offence and transferred the case for enquiry and disposal before learned Metropolitan Magistrate, 3rd Court, Calcutta. Summonses were issued against the petitioner and one other under sections 406/420/120B of the Indian Penal Code. Being aggrieved and dissatisfied with the aforesaid orders the petitioner has preferred the present revisional application.

Mr. Gupta, learned advocate appearing on behalf of the petitioner submits that the petitioner is one of the partners of '*Pragati Fashions*' which gave orders to opposite party no.2-complainant for supplying hosiery fabrics and also made payments for the same but those were not supplied within time and were defective. He further submits that no ingredients of the alleged offence have been made out. However, in his usual fairness he submits that another revisional application being CRR 63 of 2016 arising out of the selfsame case filed by the other accused Jaikishan L. Shewakramani @ Jackie Shevakramani has been dismissed by the Co-ordinate Bench of this Hon'ble Court and he files the downloaded copy of the order passed in the said revisional application. Let it be kept with the record.

Mr. Dutta, learned advocate appearing for the opposite party no. 2-complainant submits that due to pendency of the revisional application, the case before the trial court could not proceeded with and he prays for passing necessary order.

The factual matrix of the case is that there is a business transaction of order and supply of hosiery fabrics between the petitioner and the opposite party no.2-complainant. Allegations have been made against the petitioner of default in making of payment of the bills raised by the complainant. On the contrary the petitioner in his application has raised the plea with regard to delay in supply and low quality of the goods supplied. The aforesaid aspects are all question of facts. The terms of the agreement between the parties has not been pressed into service for ascertaining whether there was any breach of agreement or trust.

It appears that the petitioner has challenged the proceeding which is at a nascent stage. The trial court on being primarily satisfied after taking evidence of witnesses on S/A, issued processes against the petitioner and one other in respect of offence under Sections 406/420/120B of the Indian Penal Code. The Co-ordinate Bench of this court in another revisional application being CRR 63 of 2016 arising out of the selfsame case has observed for completion of the evidence before charge.

In aforesaid backdrop, this court is also of the view that the evidence before charge be recorded by the trial court. The petitioner would be at liberty to raise the points made in the present revisional application at the time of consideration of charge by the trial court. Accordingly, at this stage, no interference is called for.

The present revisional application being no. 115 of 2016 is disposed of, with the aforesaid direction.

All the pending applications, if any, also stands disposed of.

Interim order, if any, stands vacated.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon usual undertakings.

(Bivas Pattanayak, J.)