

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

Present:

The Hon'ble **Justice Kausik Chanda**

C.R.R. No.560 of 2020

**SUBHAS SAMANTA
-VERSUS-
THE STATE OF WEST BENGAL**

For the petitioner : Mr. Soumyajit Das Mahapatra, Adv.,
Mr. Somnath Adhikary, Adv.

For the State : Mr. Madhusudan Sur, Adv.

Hearing concluded on : 16.08.2022

Judgment on : 24.08.2022

Kausik Chanda, J.:-

The officer-in-charge, Daspur Police Station, Paschim Medinipur lodged a suo motu F.I.R. dated April 29, 2019, against three persons namely, Indrajit Rana, Sumit Paul, and Subhas Samanta. Subhas Samanta is the petitioner in this case.

2. In the said F.I.R. lodged under Sections 468, 420, and 120B of the Indian Penal Code, 1860 it was alleged that on April 29, 2019, the said officer-in-charge received information from a credible source that said Indrajit Rana and Sumit Paul called some local people for distributing some forged currency notes amongst them. Upon receiving such information, the said officer-in-charge informed his superiors and conducted a raid at the dwelling house of Indrajit Rana and found that the aforesaid accused persons were distributing counterfeit notes of Rs. 2000/-, Rs. 500/- and Rs. 200/-. The accused persons were caught red-handed. Following the information from the accused persons, a search was conducted in a car lying at the premises of Indrajit Rana. Some counterfeit currency notes in denominations of Rs. 2000/-, Rs. 500/-, and Rs. 200/- along with some fake certificates of Reserve Bank of India were found inside the car.

3. Following the investigation, a charge sheet was submitted under Sections 420/468/120B with added Sections 471/489A/489B/489C of the Indian Penal Code, 1860 against Indrajit and Sumit.

4. The investigating officer prayed for the discharge of Subhas Samanta from the case as no tangible evidence could be found against him.

5. Learned Additional Chief Judicial Magistrate, Ghatal by the order impugned dated February 3, 2020, held that from the case diary as well as the seizure list, a prima facie case against Subhas had been made. Learned Magistrate was of opinion that “not sent up” did not mean to discharge the accused person. Accordingly, the learned Magistrate took cognizance of the case and issued a process against Subhas.

6. The case diary was produced before this Court. It appears from the statements of the witnesses and accused persons as recorded by the investigating officer that Indrajit Rana and Sumit Paul took money from Subhas in the name of giving job to her wife. Subhas pressurised them to refund the money since his wife was not given the assured job. Being so pressurised, Subhas was called by Indrajit and Sumit for the refund of money in presence of some local people. When Indrajit and Sumit purported to return the money to Subhas, he suspected that he was given counterfeit currency notes. Accordingly, an intimation was given to the police by the local people. The F.I.R. maker arrived at the spot and arrested Indrajit, Sumit, and Subhas as well.

7. Taking a cue from Indrajit and Sumit, he also conducted a search in a car and seized some counterfeit currency notes in denominations of Rs.2000/-, Rs.500/- and Rs.200/-.

8. The seizure list indicates that the car was lying at the premises of Indrajit.

9. Finding of the learned Magistrate that vital documents were seized in the name of the wife of Subhas and he was caught red-handed with “Alamats” are not borne out of the materials collected by the investigating officer in course of the investigation.

10. I am of the view, that the learned Magistrate has misread the case diary. The materials available in the case diary do not implicate Subhas in the alleged offence. The investigation attributed no role to him in the alleged commission of offence.

11. When this matter was taken up for hearing on August 16, 2022, it was clarified by the learned Public Prosecutor that no articles were seized from the possession of the Subhas or from his wife. It was further clarified that the Reserve Bank Certificates were seized from and procured by Sumit and Indrajit.

12. The order of issuing process against the Subhas upon taking cognizance is a result of no application of mind by the learned Magistrate in the Court below.

13. Accordingly, the order dated February 3, 2020, passed by the learned Additional Chief Judicial Magistrate, Ghatal, Paschim Medinipur in connection with GR Case No. 324/2019 is set aside.

14. However, I make it clear that if in course of the trial or by way of further investigation, any material or evidence is collected against Subhas,

the Court below will be at liberty to proceed against him in accordance with law.

15. Accordingly, CRR 560 of 2020 is disposed of.

16. Urgent certified website copies of this judgment, if applied for, be supplied to the parties subject to compliance with all the requisite formalities.

(Kausik Chanda, J.)