22-04-2022
Subha
Item no.35
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

**C.R.R 551 of 2018**

In the matter of : **Indusind Bank Limited** .....petitioner.

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

Mr. Sayak Ranjan Ganguly
Ms. Srijani Ghosh
....for the petitioner.

Mr. Abhra Mukherjee
Ms. Debjani Sahu
......for the State.

Supplementary affidavit so filed by the petitioner be kept with the record.

The revisional application has been filed at the instance of the Indusind Bank Limited pursuant to Uttarpara Police Station Case No. 536 of 2015 dated December 28, 2015 being registered for investigation under Sections 420/406/120B of the Indian Penal Code at the instance of the opposite party no. 2 namely, one Vijay Kumar Shaw.

The genesis of the case arose on the basis of an application under Section 156(3) of the Code of Criminal Procedure wherein the learned Magistrate was pleased to direct the Officer-in-Charge, Uttarpara Police Station to treat the petition of compliant as F. I. R and investigate into the allegations.

The thrust of the contention is that the complainant claims that he is unaware being a guarantor and Indusind Bank has issued notice to him. According to him, one Sushil Sukla happens to be the borrower and by hatching a criminal conspiracy the said Sushil Sukla and the men and agents of Indusind Bank has cheated the complainant. The police authorities on conclusion of investigation submitted charge-sheet.

Learned advocate for the petitioner contends that the Bank Authorities have been malafidely roped in the present case and the complainant is not a guarantor but a co-borrower along with the said Sushil Sukla.

Mr. Abhra Mukherjee, learned advocate appears on behalf of the State. Learned advocate for the State produces the case diary.

I have perused the case diary and I find that there is substance in the submissions advanced by the learned advocate for the petitioner as the loan agreement which has been relied upon by the prosecution reflects that Sushil Sukla happens to be the borrower and Vijay Kumar Shaw, the complainant herein is a co-borrower. The notice as such so issued by the bank was never for the purposes of cheating, criminal breach of trust or extortion and the same was rightly issued to defaulting borrowers.

On consideration of the merits of the case, I am of the opinion that the men and agents as also the petitioner, Indusind Bank have been falsely implicated in connection with the instant case and the same has been done for the purposes of circumventing the consequences to be suffered by a defaulter.

Accordingly, the same satisfies one of the parameters enunciated in the case of State of Haryana & Ors. Vs. Ch. Bhajan Lal

& Ors. reported in AIR 1992 SC 604.

Thus, further continuation of the proceedings is an abuse of the process of law and as such is liable to be quashed.

Accordingly, Uttarpara P. S. Case No. 536 of 2015 dated December 28, 2015 and the chargesheet submitted therein under Sections 420/120B of the Indian Penal Code against the present petitioner is concerned is hereby quashed.

Consequently, the present revisional application being CRR 551 of 2018 is allowed.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

Interim order, if any, is hereby made absolute.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]