

28.04. 2022
item No.19
Rakib (PA)
ct. no. 34

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

**CRR 646 of 2018
With
IA No. CRAN 1 of 2018 (Old CRAN 913 of 2018)
(Via Video Conference)**

**Sheshadri Goswami
Vs.
The State of West Bengal & Onr.**

In Re: An application under Section 401 read with Section 482 of the Code of Criminal Procedure filed in connection with G.R. Case No. 1881 of 2015 arising out of Shakespeare Sarani P.S. Case No. 287 of 2015 dated 14.08.2015 under Sections 420/406/120B/506 of the Indian Penal Code, 1860.

Mr. Sheshadri Goswami
.... Petitioner appearing in person.

Mr. Amitesh Banerjee, Ld. Senior Standing Counsel,
Mrs. Sujata Das,
Mrs. Debjani Sahu

....for the O.P. Nos. 1 & 2/ State.

Mr. Milon Mukherjee, Sr. Adv.,
Mr. Sandipan Ganguly, Sr. Adv.,
Mr. Somopriya Chowdhury,
Mr. Kaushik De,
Ms. Mohini Majumder,
Mr. Raghav Munshi

....for the Opposite party No.3.

Mr. Sekhar Basu, Sr. Adv.,
Ms. Sharmistha Laha,
Mr. Souradeep Banerjee

....for the Opposite Party No.4.

Records of the case reflect that there was a delay in preferring the revisional application on behalf of the petitioner who is appearing in person before this Court. In the

background of the facts that the petitioner did not have any audience in respect of a closure report filed by the Investigating Officer in connection with Shakespeare Sarani P.S. Case No. 287 of 2015 dated 14.08.2015 and the fact that disputes have been raised regarding the issue whether service has been affected or not, I am of the opinion that as a right has been vested for considering a protest petition before a Court of law accepts closure of investigation, an opportunity must be given to the petitioner to place his case before the jurisdictional Court.

An affidavit-in-opposition has been filed on behalf of the Opposite Party No. 3 and 4 in respect of the application under Section 5 of the Limitation Act. Regard being had to the broader issues involved in this case, the prayer for delay in filing the revisional application is condoned.

Thus, CRAN 913 of 2018 is allowed.

The revisional application has been taken up for considering the main prayer of the petitioner in the revisional application relating to the order dated 01.06.2017 passed by the Learned Chief Metropolitan Magistrate, Calcutta wherein it appears from the record that “notice was served upon the *de facto* complainant.” It reflects that the learned Public Prosecutor appearing raised no objection regarding acceptance of the final report wherein the Investigating Officer has opined that the case is “civil in nature”. In course of hearing of the revisional application, the lower Court Records were called for and the affidavit-in-opposition filed by the opposite party No. 3 and 4 to the supplementary affidavit filed

by the petitioner was considered and it is seen from the letter of complaint which was accepted by the Office of the Special Additional C.P. Detective Department, Lalbazar on 27.07.2015 that the case related to non-refund of depositor's money by a company named I.F.B. Finance Ltd.

On different dates the parties before this Court addressed on the issues involved regarding the maintainability of the proceedings before the High Court and an affidavit was also filed by the Investigating Officer of the case which has been kept on record. This Court felt that innocent depositors have been deprived and as such directed an enquiry to be conducted by Dr. Pranav Kumar, the Inspector General of Police, CID, West Bengal. After conducting an enquiry, a report has been submitted before this Court which expresses opinion contrary to the findings of the Investigating Officer of the case as "civil in nature". This Court perused the report prepared by the I.G., CID, West Bengal and found that there were several lacunas in the investigation conducted by the Investigating Officer of Shakespeare Sarani Police Station. Taking into account the facts of the case that the depositors have been deprived not only of the matured amount but also of the principal amount and the opinion expressed by a Superior Police Officer, I am of the opinion that the petitioner must be afforded opportunity of hearing.

Thus, liberty is granted to the petitioner to file an application under Section 173(8) of the Code of Criminal Procedure before the Learned Chief Metropolitan Magistrate,

Calcutta which shall be filed by 6th of May, 2022. The Learned Magistrate would thereafter fix a date for hearing.

The petitioner is directed to submit requisite number of copies along with the application, so that the Office of the C.M.M., Calcutta would be in a position to serve the parties.

The original report prepared by the Inspector General of Police, CID, West Bengal be sent in a closed envelope to the Learned Chief Metropolitan Magistrate, Calcutta after a Photostat copy of the same being retained by the Department/Criminal Section in a sealed cover along with the records of this case.

The learned C.M.M., Calcutta will peruse and consider the report of the Inspector General of Police, CID, West Bengal and thereafter form his opinion regarding the issue of further investigation of the case. Needless to state that the Learned C.M.M., Calcutta would form his independent opinion regarding the issues in the application under Section 173(8) of the Code of Criminal Procedure and would be at liberty to exercise his jurisdiction in respect of any Special Investigating Agency of the State of West Bengal, if so required.

It is further directed that the hearing of the case would start on and from 13th of May, 2022 and should conclude by 20th of May, 2022.

Accordingly, the order dated 01.06.2017 passed by the Learned Chief Metropolitan Magistrate, Calcutta is hereby set aside.

Thus, CRR 646 of 2018 is allowed.

Pending applications, if any, are consequently disposed of.

Department is directed to send back the Lower Court Records by 3rd May, 2022, after compliance with the necessary directions as stated above in respect of the report.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)