

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

Appellate Side

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

**C.R.R. 705 Of 2018
CRAN 1 of 2020 (Old No. CRAN 547 of 2020)**

Milan Kumar Datta

Versus

The State of West Bengal & Anr.

For the petitioner : Mr. Ayan Basu
Ms. Debaki Nandan Maiti
Mr. Sumit Routh
....Advocates

For the State : Mr. Imran Ali
Ms. Debjani Sahu
....Advocates

Heard on : 17.06.2022

Judgment on : 29.06.2022

JAY SENGUPTA, J:

1. This is an application challenging an order dated 23.02.2018 passed by the learned Metropolitan Magistrate, 12th Court, Kolkata in G.R. Case No. 552 of 2013, thereby rejecting the petitioner's prayer for discharge in

connection with Bowbazar Police Station Case No. 66 of 2013 dated 06.02.2013 under Sections 467, 468, 471 and 420 of the Penal Code.

2. The petitioner was a member of a co-operative society. The instant complaint was lodged by the Joint Registrar of Co-operative Societies on the basis of a complaint filed by another member of the Co-operative Society. The crux of the allegations were that the petitioner allegedly forged a purported communication of the Joint Registrar of Co-operative Societies and circulated a letter for the formation of a Board on the basis of such fake communication. Although the Board was announced, the formation of the Board was not given effect to after the issue of the forged/fake letter came to light. It was the petitioner's case that the letter was dropped maliciously at his letter box so that he could unsuspectingly act on the same. A charge sheet was submitted. The learned Trial Court refused to discharge the petitioner from the alleged charges.

3. Mr. Basu, learned counsel appearing on behalf of the petitioner, submitted as follows. The present FIR was lodged on 06.02.2013 by the opposite party no. 2 based on a complaint made by a member of a co-operative society on 01.02.2013. The prime allegation was that the petitioner had circulated a letter for the formation of a Board of a co-operative society on the basis of a forged communication from the Joint Registrar of Co-operative Societies. On 05.02.2013 the Joint Registrar of Co-operative Societies wrote to the petitioner stating that the Circular in question was forged. On 12.02.2013 the petitioner appraised all about the correct position. He also informed the Joint Registrar of Co-operative Societies about it with a copy to the police station. It was the consistent stand of the

present petitioner that the letter in question was maliciously dropped in his letter box and the petitioner acted on the same without suspecting any wrongdoing. The present petitioner had earlier written to the Joint Registrar of Co-operative Societies about the mismanagement of the affairs of the concerned Co-operative Society. It was germane to mention that earlier, an enquiry report of the Co-operative Development Officer found financial irregularities in the affairs of the society managed by others including the person at whose behest the FIR was lodged. Therefore, trying to set up the present petitioner could very well have been actuated by the resultant grievance. Besides, there was no matching of signature done in this case. In fact, there was no investigation done on the signature contained in the purported letter. There was no material to indicate any specific role played by the petitioner. In fact, there was no harm done inasmuch as after coming to know about the real facts, the Board did not take charge in pursuance of the said letter. The member of the Co-operative Society, at whose instance the FIR was registered by the Co-operative Society, withdrew his allegations by a subsequent letter given to the Joint Registrar. As such, no *prima facie* case was made out against the present petitioner. Any further continuation of the impugned proceeding shall be an abuse of the process of Court.

4. Mr. Ali, learned counsel, appearing on behalf of the State and the opposite party no. 2, submitted as follows. It is true that the case diary contained a letter from the present petitioner regarding mismanagement in the working of the Co-operative Society. However, a *prima facie* case was made out against the petitioner as would be evident from a plain reading of

the First Information Report and the charge sheet. The seizure list supported the case of the prosecution.

5. I heard the submissions of the learned counsels appearing on behalf of the petitioner and the opposite parties and perused the revision petition and the case diary.

Trouble in the Co-operative Society:

6. From page 25 from the case diary it appears that the present petitioner had earlier written to the Joint Registrar of Co-operative Societies about the mismanagement of the affairs of the concerned Co-operative Society. This is the starting point vis-a-vis' the present complaint and the issue ought to be juxtaposed with the petitioner's claim that he had unsuspectingly acted on the purported letter that was dropped in his letter box. An inquiry report of the Co-operation Development Officer also purportedly corroborates the factum of mismanagement of affairs of the society.

Nature of the alleged offence and its aftermath:

7. From a plain reading of the First Information Report it appears that the prime allegations against the present petitioner are that the petitioner relied on a forged memo purportedly sent by the Joint Registrar of Co-operative Societies and on its basis, issued a Circular claiming the formation of a new Board of Directors of the Society. It was pertinent to note that soon after the issue of the said forged letter came to the notice of the petitioner, he issued necessary communications to the members, the Co-operative Society and the police, effectively withdrawing the Circular. No harm was done inasmuch as, the said Board did not take charge at all.

Investigation into the case:

8. Investigation into the alleged offences was absolutely perfunctory. Only casual and innocuous statements were taken from a couple of witnesses and the communication in question was seized. No effort was made either to trace out the source of the letter or to even compare the signature contained in the letter with the signatures of the concerned persons. There is hardly anything available to connect the present petitioner with the alleged forgery except for the admitted stand of the petitioner that the letter had been dropped in his letter box and he innocently relied on the same, which fact, in any event, has to be read with the existing animus between the members of the Society.

9. In view of the above, I do not find any material to connect the present petitioner with the alleged offences. As such, no *prima facie* case is made out against the present petitioner as would be evident from a plain reading of the First Information Report and the charge sheet.

10. Therefore, the impugned proceedings are quashed.

11. The revisional application and the connected application are accordingly disposed of.

12. Urgent photostat certified copies of this judgment may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J)