06.06.2022
sl No.6
court no. 33
sk

C.R.R. 587 of 2013
1A No. CRAN/2/2013(Old No. CRAN/1612/2013)
Eastern Travels Pvt. Ltd. & Anr.
Vs
Smt. Paramita Adhitya

Mr. Aniruddha Mitra
Mr. T.K.Sen
Mr. Dhilon Sengupta
Mr. Airban Ghosh
...for the petitioner.

Mr.A. Hossain
Ms. Manisha Sharma
...for the State.

This revisional application under Section 482 of the Code of Criminal Procedure has been filed by the petitioners-accused challenging the order dated 3.12.2012 passed in connection with A.C. Case No. 375 of 2010 by the learned Judicial Magistrate, 4th Court at Alipore, 24-Parganas (South).

The factual matrix of the case is that one Kaushik Aditya issued two cheques in favour of M/s. Eastern Travel Private Limited(the petitioners herein) bearing numbers 263798 dated 17th April, 2009 amounting to Rs. 5,20,000/- and 263799 dated 23rd April, 2009 amounting to Rs. 8,48,745/-, both of Standard Chartered Bank. The aforesaid cheques were placed encashment but were dishonoured due to insufficient funds. The petitioners-accused filed a complaint before the Judicial Magistrate, Jamshedpur, Jharkand being Complaint Case No. 3393/2009 under Section 138 of Negotiable Instruments Act against the opposite party-complainant and her husband Kaushik Aditya. The aforesaid criminal proceedings under the Negotiable Instruments Act against the opposite party-complainant, namely, Paramita Aditya was quashed on 24.02.2010 by the Hon'ble Jharkand High Court in W.P(CR) 507 of 2009. On the contrary the opposite party-complainant initiated the present complaint before the Judicial Magistrate,4th Court at Alipore being AC Case No. 375 of 2010 under Sections 467/468/469/471/474/420 read with Section 120B of the Indian Penal Code on the allegation of forgery of her signature by the petitioners-accused on the aforementioned cheques. The concerned Magistrate took cognisance of the aforesaid offences. The petitioners-accused entered appearance and filed an application under section 245(2) of the Criminal Procedure Code for discharge. Upon hearing, the concerned Magistrate rejected such prayer of the petitioners-accused on 03.12.2012 on the score that the grounds raised by the petitioners-accused is pure question of law and fact, which has to be decided after taking evidence. Being aggrieved and dissatisfied with the said order the petitioners-accused have preferred the present revisional application.

Mr. Sengupta, learned Advocate appearing on behalf of the petitioners-accused places the certified copy of orders of the court below. Let those be taken on record. He submits soon after initiation of the present criminal proceedings on the allegation of forgery of signature of the complainant by the petitioners-accused in the concerned cheques, the petitioners-accused got clarification from the concerned Bank authority regarding the second signature appearing below the signature of Kaushik Aditya (drawer) in the aforementioned cheques. The concerned Bank authority in clear terms clarified that the signature appearing in the aforementioned cheques below the signature of drawer is of authorised person of the Standard Chartered Bank processing the cheques for clearance. Furthermore he submits that they have accepted after getting the clarification from the Bank, that the aforesaid cheques does not bear the signature of the opposite party-complainant, Paramita Aditya. Thus the question of forgery does not arise at all. In view of his above submissions, he prays for quashing of the entire criminal proceedings against the petitioners-accused person.

None appears on behalf of the opposite party-complainant.

It appears that on 2nd May, 2022 affidavit of service regarding service upon the opposite party-complainant was filed in court.

Learned Advocate for the State as per direction of the court also files compliance report showing that the opposite party-complainant has been served with the copy of the present revisional application along with annexures in terms of the order dated 2nd May, 2022. Thus in spite of repeated service the opposite party-complainant has not appeared.

It appears that two cheques bearing Nos. 263798 dated 17.4.2009 amounting to Rs. 5,20,000/- and 263799 dated 23.4.2009 amounting to Rs. 8,48,745/- was issued by one Kaushik Aditya in favour of the petitioners-accused. Upon perusal of the said two cheques it is found that below the signature of drawer Kaushik Aditya, there is a signature of one other person. The aforesaid two cheques were placed for encashment which was dishonoured due to ïnsufficient funds”. In relation to such dishonoured of cheques one case was initiated before the Judicial Magistrate, Jamshedpur, Jharkand being C.Case No. 3393 of 2009 under Section 138 of the Negotiable Instruments Act against the opposite party-complainant and her husband, Kaushik Aditya. The proceedings against the opposite party-complainant was quashed by Hon’ble High Court at Jharkhand on

24.2.2010 in WP No. 507(CR) of 2009. The crux of the allegation made by the opposite party-complainant in her complaint at paragraph 7 is that her signature was forged by the petitioners-accused on the aforesaid two cheques. The petitioners-accused sought for a clarification from the bank authority regarding the signature appearing below the signature of drawer Mr. Kaushik Aditya from the concerned Bank i.e. Standard Chartered Bank by its letter dated 19th April, 2010 (Annexure-D at page 34). The Standard Chartered Bank by its letter dated 21st April, 2010 has clarified (Annexure E at page 36) that the signature affixed below the signature of drawer Mr. Kaushik Aditya in the cheque bearing No. 263798 dated 17.4.2009 and cheque No. 263799 dated 23.4.2009 amounting to Rs. 5,20,000/- and Rs. 8,48,745/- respectively is the signature of authorised person of Standard Chartered Bank processing the cheques for clearance. Thus, the assertion of the opposite party-complainant that her signature was forged in the aforesaid two cheques by the petitioners-accused does not arise at all and is unfounded. Therefore, no useful purpose is likely to be served by allowing the present criminal proceedings to continue. Accordingly, in view of the aforesaid discussion the entire criminal proceedings being AC Case No. 375 of 2010 pending before the Judicial Magistrate, 4th

Court at Alipore 24-Parganas(South) initiated against the petitioners-accused stands quashed.

The revisional application being CRR No. 587 of 2013, thus, stands disposed of.

All connected applications, if any, also stands disposed of.

Interim order, if any, stands vacated.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Bivas Pattanayak,J.)