

28-11-2022
Subha
Item no 30
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 1010 of 2021

Sri Ashim Kumar Rakshit & Ors.
-versus-
State of West Bengal & Anr.

Mr. Prasenjit Debnath
Mr. Sayan Kanjilal
.....for the petitioners.

Mr. P. K. Datta, Id. APP,
Md. Kutubuddin
Mr. Santanu Deb Roy
....for the State.

Mr. KaranDudhwewala
Mr. Mukesh Pandey
...for the opposite party no. 2.

Mr. Debnath, learned advocate appearing for the petitioners submits that the present case arose out of a commercial transaction, where an agreement was entered into between the parties, a partnership agreement was created and thereafter disputes and differences arose and because of no unanimity being reached in respect of the settlement of accounts, the criminal case was set into motion.

. Learned advocate appearing for the petitioners drew the attention of this court to the relevant clauses of the partnership deed and emphasized that by bolstering up the quantum, the complainant tried to impress the court regarding the loss sustained by him.

Additionally, it has been submitted that the complainant is secured as a case under Section 138 of the N. I. Act has already been initiated.

Mr. Deb Roy, learned advocate appearing on behalf of the State produces the case diary. He has drawn the attention of this court to the chargesheet filed before the jurisdictional court and the materials so collected by the Investigating Agency.

Mr. Dudhwewala, learned advocate appearing for the private opposite party no. 2 submitted that all the three accused persons are involved in the present case and it was the son who introduced the complainant to the principal accused representing that he would fetch larger profit by entering into an agreement in respect of onion business where the principal accused has enriched himself.

Learned advocate also submitted that there are allegations against the accused persons as also the principal accused Ashim Kumar Rakshit who did not have any intention to pay the money from the very inception and was having a pre-determined intention of deceiving the complainant.

It has been informed to this court that till date, the charges have not been framed.

So far as the petitioners are concerned, they have an opportunity under Section 239 of the Code of Criminal Procedure to ventilate their grievance in respect of the materials placed by the prosecution.

I have considered the oral and documentary evidence and on

an assessment of the same, I am of the opinion that at this stage the High Court in exercising its jurisdiction under Section 482 of the Code of Criminal Procedure, it would not be fit and proper for this court to enter into the arena regarding the involvement of each and every person, prima facie there is an allegation made in the application under Section 156(3) Cr.PC, which was treated to be the first information report of the instant case. .

The nature of arguments so advanced on behalf of the petitioners are definitely worth mentioning, but at a different stage of the proceedings and not at this initial stage.

Accordingly, if the petitioners are so advised, they would file an application under Section 239 of the Code of Criminal Procedure for discharge before the learned trial court and the learned trial court on an appreciation of the same would dispose of the same in accordance with law.

With the aforesaid observations, the present revisional application being CRR 1010 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

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]

