21.11.2022

Court No.35
Item No. 6

d.g.

CRR 1054 of 2015

Tarun Kumar Majumder
Vs.
The State of West Bengal & Anr.

Mr. Gopal Ghosh,
Mr. Tapas Kumar Sinha.
... For the petitioner

Ms. Deblina Lahiri,
Ms. Teresa Chetri.
... for the OP no. 2 (SBI)

Mr. Suman De.
... for the State

This revision is filed by the petitioner to challenge the proceedings and charge-sheet in connection with Behrampur Police Station Case No. 460 of 2010 dated 3rd July, 2010 under Sections 420, 120B of the Indian Penal Code (being charge-sheet no. 36/2011 dated 26th January, 2011 and supplementary charge-sheet no. 42/2011 dated 29th January, 2011).

The charge-sheet was filed against the present petitioner along with the other accused persons under Section 406/109/409 of the Indian Penal Code, connected G.R. Case No. 2228 of 2010.

Petitioner, at the relevant point of time was an employee of State Bank of India, Behrampur Branch, Murshidabad and was in charge of passing the cheques presented for disbursement. This fact is admitted. FIR was lodged by the opposite party no. 2 on 3rd July, 2010 alleging, inter alia, that the other two co-accused persons in the case has committed criminal breach of trust and cheating by issuing cheques of larger amount whereas they do not have sufficient balance in their account to make good, the cheques issued by them.

On the basis of such FIR, investigation was started and on the materials collected during the same, the charge-sheets as mentioned above were submitted whereby the implication of the present petitioner appears.

It is submitted on behalf of the petitioner, firstly, that the FIR was a belated one submitted after about two or three years of the alleged incident suggesting thereby concoction of the facts stated in FIR.

It is further submitted that the FIR maker has never incorporated petitioner's name and assigned any role to him in commission of the entire crime as alleged.

It is the argument on behalf of the petitioner that implication of his name in the present case is only baseless as there is no materials against him particularly in the FIR, and only affiliated by concocted, after thought and malicious allegations and proceedings.

Mr. Suman De, learned Advocate appears on behalf of the State and by handing over the copy of the case diary has pointed out to the relevant portion of the same showing petitioner's involvement in commission of the offence as alleged, as has transpired during investigation.

Ms. Lahiri, learned Advocate appears on behalf of the OP no. 2 and submits about strong prima facie case against the petitioner to be existent so as to proceed with the trial against him.

In consideration of the facts of the case that, two cheques were issued of such an amount which the account holder/accused persons did not possess in their respective bank accounts, at the relevant point of time, though the cheques were passed and the amount were disbursed-the role of the present petitioner, at least prima facie, being an employee of the bank and being entrusted with the duty for passing the cheques presented in the bank, cannot be overruled.

In view of such material, the point raised on his behalf, i.e., of belated filing of the FIR or his name not being mentioned in the FIR may not at this stage, be a triggering factor for this Court to direct not to proceed with the trial of the case. It has been pointed out on behalf of the State that the formal portion of the FIR contains petitioner's name.

Be that as it may, when in this revision the Court is only concerned about the existence of prima facie material as to the involvement and culpable intention of the petitioner, which is available abundantly in this case, the grounds as pleaded by the petitioner do not appear to be convincing enough to ensure an order as prayed for by him to be delivered. This proposition has been upheld by the Hon'ble Supreme Court, in its decision reported in ***1992 Supp (1) SCC 335 (also AIR 1992 SC 604) (State of Haryana vs. Bhajanlal)***.

Hence, in my considered opinion, this revision is devoid of any merit, particularly when the trial of the case has already been started after framing of charge. Hence, the same is liable to be rejected.

Accordingly, CRR 1054 of 2015 is rejected.

However, in view of the time gap already intervening during pendency of the instant revision case, the Trial Court is requested to complete the trial as expeditiously as possible.

Case diary be returned.

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

(Rai Chattopadhyay, J.)