

CRR 1306 of 2010

In the matter : Subhas Chandra Agarwala

Ms. Sreyashee Biswas
Ms. Puja Goswami for the petitioner

Mr. S.G. Mukherjee, Ld. P.P.
Ms. Manisha Sharma ... for the State

Challenge in this revisional application is to the Garubathan P.S.
Case No. 3 of 2005 registered under Sections 406/409 of the I.P.C.

The enforcement officer, EPFO, SRO, Siliguri informed the officer-in-charge of Garubathan P.S. within the district Darjeeling in writing that M/S. Fagu Tea Estate of Garubathan, district- Darjeeling, despite deducting the employee's share of contribution failed to pay the same to the statutory fund. Since the information disclosed offence cognizable in nature, Garubathan P.S. Case No. 3 of 2005 was registered. Police took up investigation that culminated into submission of charge sheet under Sections 406/409 of the I.P.C.

Challenging the said final report the accused Subhas Chandra Agarwala by filing this application under Section 482 of the Cr. P.C. has sought for an order quashing the aforesaid case pending against him.

Ms. Biswas, learned counsel representing the petitioner submits that the petitioner is otherwise not interested to press this application and a print out copy of the communication made by Sri Agarwala the petitioner to Ms. Biswas is produced. But the content of the letter in the form of instruction speaks of withdrawal of Garubathan P.S. Case No. 3

of 2005 and not about the withdrawal of C.R.R. 1306 of 2010 which is pending before the Court.

The copy of the said communication is taken on record.

However from the attending facts of the case I find that police after investigation has submitted charge sheet against the petitioner under Sections 406/409 of the I.P.C. for having failed to deposit the contribution of the employees to the statutory fund meant for the welfare of the workers; under such circumstances I do not consider it apt to invoke the inherent jurisdiction to quash the proceeding as prayed for.

However, liberty is given to the petitioner to agitate all the points before the learned Trial Court during trial.

The revisional application is thus disposed of along with all connected application, if any. Interim order, if any, stands vacated.

Copy of the order be sent to Learned Trial Court for information.
Parties to act on server copy duly downloaded.

(Siddhartha Roy Chowdhury, J.)