

22.07.2022
S/L No.21
KS/ss

C.R.R. 1753 of 2018
Sandip Kumar Pal
-Vs.-
The State of West Bengal

Mr. Baidurya Ghosal
Ms. Aatreyee Dutta

.....For the Petitioner

Mr. Gautam Banerjee

.....For the State

Party/parties is/are represented in the order by their name/names as printed above in the cause title.

The revisional application filed under Section 482 of the Code of Criminal Procedure, 1973 is listed today for hearing and for filing a status report regarding pendency of the case.

Learned advocate for the State is present and files a status report. Perused the same and kept with the record.

Learned advocates for the petitioner has filed an affidavit of service. The same is taken on record.

The petitioner a Block Accounts Manager to the Block Medical Officer of Health, Farakka, Block Public Health Centre, Murshidabad at the relevant time has prayed for quashing of the proceeding in connection with G.R. Case No.815 of 2015 arising out of Farakka Police Station Case No.82 of 2015 under Sections 120B/ 420/ 465/ 468/ 34/ 471/409 of the Indian Penal Code, now pending before Learned Additional Chief Judicial Magistrate, Jangipur, Murshidabad and order dated 07.04.2018 where Learned

Magistrate had directed appearance of the two accused persons by a routine order.

The facts of the case giving rise of Criminal Revision is that on 13.04.2015 the Chief Medical Officer of Health, Murshidabad West Bengal under his Memo No.CM-MSD/2565 dated 13.04.2015 lodged a complaint against Dr. Deepayan Mondal, Block Medical Officer of Health, Farakka, Murshidabad and the petitioner, Sandip Kumar Pal, Block Accounts Manager alleging defalcation and misappropriation of Government money from the account of the said Samity by creation of fake document as well as by committing forgery.

The Inspector-in-Charge of Farakka Police Station registered Farakka Police Station Case No.82 of 2015 dated 13.04.2015 under Sections 120B/ 420/ 465/ 468/ 34/ 471/409 of the Indian Penal Code against the F.I.R. named persons and after investigation submitted charge sheet against them under Sections 420 /465 /468 /409 / 471/ 34 read with Section 120B of the Indian Penal Code. Cognizance of the offence was taken by the Learned Magistrate on 30.04.2017.

According to the petitioner he is innocent and Dr. Deepayan Mondal, Block Medical Officer of Farakka, Murshidabad on 09.04.2015 in his letter addressed to the Chief Medical Officer of Health, Murshidabad categorically admitted that he has taken the Government money from the Block Health and Family Welfare from the account of Farakka unlawfully and now he is intending to refund the amount of Rs.3,00,000/- (Rupees Three Lakhs Only) and the amount has been refunded to the office of the Cashier by accused no.1.

Learned advocate for the petitioner argued that the petitioner herein is a contractual employee and was in no way involved in the said offence and submitted that continuance of the criminal proceeding against the petitioner would be an abuse of the process of Court as such, the criminal proceeding against the petitioner needs to be quashed.

Learned advocate for the State strongly opposed the prayer for quashing of the proceeding. It is submitted that the accused petitioner being the Block Accounts Manager to the Block Medical Officer of Health, Farakka, Public Health Centre, Murshidabad at the relevant time was instrumental in perpetrating the offence and the same has been done in official course whereby money from state exchequer has been embezzled.

Considered the submissions made by learned advocates for the petitioner as well as for State.

Perused the documents annexed with the revisional application and the materials leading to submission of charge-sheet against both the accused persons, Dr. Deepayan Mondal and Sandip Kumar Pal the petitioner. On the face of the F.I.R. lodged by the Chief Medical Officer of Health, Murshidabad it appears that the petitioner is one of the F.I.R. named accused. In course of inspection conducted on 06.02.2015 in respect of cash book vouchers and other relevant documents relating to the said Samity it came to light on 08.10.2014 there were payment/disbursement in cash of a sum of Rs.1,50,000/- in favour of Arjunpur PHC through Dr. Ashis Kumar Adhikari and a sum of Rs.1,00,000/- (Rupees One Lakh only) in favour of Benlagram PHC through Dr. Gour Sankar Pal and a sum of Rs.50,000/- to Kendua PHC through Debi Das totalling a sum of

Rs.3,00,000/- (Rupees Three lakh only) from the account of the said Samity in absence of any approval or resolution from the RKS Samity/BH & FW Samity.

It was further alleged in the FIR that Dr. Deepayan Mondal in his letter dated 09.04.2015 addressed to the CMOH, Murshidabad admitted his guilt and intended to refund the amount to the de facto complainant. From such facts and circumstances the FIR was lodged against Dr. Deepayan Mondal, BMOH, Farakka and the present petitioner who is in the capacity of the Block Accounts Manager of the said of the said Samity who is in charge and control of the entire amount in the accounts.

From the facts and circumstances and the material on record the involvement of the petitioner in disbursing money in unlawful manner is apparent. Investigation has also resulted in a charge-sheet against him. Thereby, a strong prima facie case is evident against the petitioner and the co-accused. Whether the petitioner, in charge and control of the entire accounts of the Samity, had any role in the alleged offence can only be considered after entering into evidence and by way of substantiating of the charge by leading oral and documentary evidence. Therefore, the case of the petitioner that he is innocent and no way involved in the offence lies in the realm of facts which are to be decided through evidence and cross-examination.

In such view of the matter, I do not find any merit in the application of the petitioner for quashing of the proceeding against him.

The revisional application praying for quashing of the entire proceedings arising out of GR Case No. 815/2015 now pending before the learned Judge, Special Court (ADJ, 2nd Court), Jangipur is dismissed.

Interim order, if any, stands vacated.

Let a copy of this order be communicated to the learned Additional Chief Judicial Magistrate, Jangipur as well as the learned District and Sessions Judge, 2nd Court, Jangipur for information.

(Ananda Kumar Mukherjee, J.)