

14.11.2022
S/L No.29
KS

C.R.R. 1706 of 2021
Anil Seth
-Vs.-
State of West Bengal & Anr.

Mr. Sanjay Banerjee
Mr. Dipanjan Dey
Ms. S. Manna
.....For the Petitioner
Mr. R. Nandy
Ms. Monisha Sharma
.....For the State
Mr. A. Saha
Mr. P. Kundu
Ms. Snigdha Saha
.....For the O.P. No.2

The subject-matter of the revisional application relates to quashing of the charge-sheet which has been filed by the Investigating Agency relating to Shakespeare Sarani Police Station Case No.99 dated 16.04.2018 under Sections 420 / 406 of the Indian Penal Code. The gist of the allegations as is appearing in the application under Section 156(3) of the Code of Criminal Procedure which was filed before the Learned C.M.M., Kolkata was to the effect that the accused made continuous transactions in the bank account of Seth Sales Private Limited which was already struck off from the Registrar of Companies and the said accused also misappropriated huge amount of money which was already existing in the account of Seth Sales Private Limited by keeping all the other Directors and shareholders of the said Seth Sales Private Limited in dark. The accusations, as such, were that the accused person being the sole authorized signatory, he by his false and fraudulent representations

misappropriated the company's money for private and personal gains. The said application was treated as the First Information Report of the instant case and the Investigating Agency on conclusion of investigation submitted charge-sheet under Section 406 of the Indian Penal Code.

I have perused the report under Section 173 of the Code of Criminal Procedure and under Serial No.10 of the said report which relates to details of properties/articles/documents recovered/seized during investigation and relied upon it is written "nil".

Mr. Nandy, learned advocate appearing for the State was directed to produce the Case Diary and asked to substantiate regarding the factum of the same being "nil" which, in fact, goes to show that no document was seized in course of the investigation and yet a charge-sheet has been submitted under Section 406 of the Indian Penal Code. Mr. Nandy, learned advocate for the State refers to a letter by one Mr. Mahendra Kumar Seth in connection with the instant case which was addressed to the Officer-in-Charge of Shakespeare Sarani Police Station which reflects that the accused withdrew Rs.22,15,639/- and a xerox copy of the bank statement was certified by the complainant. The original of the same was retained by the complainant. On an analysis of the same and on being checked from the learned advocate appearing for the State, I do not find any bank statement being certified by a Bank Manager or officer of the concerned bank which would relate to an admissible evidence. The documents which were collected by the Investigating Agency are under no circumstance an admissible evidence being only photostat copies of documents. The charge-sheet, therefore, can only be construed to be on the basis of oral evidence as the foundation of the offence which according to

the nature of the allegations do not suffice the necessary requirements for prima facie making out an offence under Section 406 of the Indian Penal Code.

Having regard to the same, I am of the opinion that further continuance of the proceedings in respect of the charge-sheet submitted in connection with Shakespeare Sarani Police Station Case No.99 dated 16.04.2018 is unwarranted and, as such, is liable to be quashed.

Accordingly, all further proceedings as also the orders passed in connection with Shakespeare Sarani Police Station Case No.99 dated 16.04.2018 are hereby quashed.

However, as there are some documents relating to the bank statements which are available reflecting bank transactions, I direct that in case the complainant is able to show the same in an admissible form of evidence before a Court of Law, the complainant would be at liberty to file a complaint under Section 200 of the Code of Criminal Procedure which the learned Magistrate would be at liberty to proceed in accordance with law.

Accordingly, C.R.R. 1706 of 2021 is allowed.

Pending applications, if any, are consequently disposed of.

Interim order, if any, is hereby made absolute.

All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)