

28.03.2022

Item No.2
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 1767 of 2017

**Sankha Pani Das
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 401 read with Section 482 of the Code of Criminal Procedure filed in connection with Bowbazar Police Station Case No. 556 dated 26.10.2013 under Sections 120B/420/467/468/471 of the Indian Penal Code.

Mr. Amarta Ghose,
Mr. Pran Gopal Das,
Mr. Sanat Kumar Das,
Mr. Sujan Chatterjee ... For the Petitioner.

Ms. Anasuya Sinha,
Mr. Pinak Kumar Mitra ... For the State.

Mr. Arnab Das,
Ms. Paromita Purkait Ram ... For the Opposite Party No.2.

Mr. Ghose, learned advocate appearing for the petitioner challenges the continuance of the proceedings relating to Bowbazar Police Station Case No. 556 dated 26.10.2013. It is submitted that as a counterblast to the civil suit, the present case has been initiated at the instance of the *de facto* complainant. According to the learned advocate, a money suit was preferred at the instance of the present accused. There was a participation of the *de facto* complainant and in order to resist the claims in the civil suit, the *de facto* complainant has resorted to invoke the jurisdiction of criminal court. Learned advocate further submits that the dispute is absolutely civil in nature and a civil dispute has been given the cloak of a criminal proceeding.

Learned advocate appearing for the *de facto* complainant/opposite party no.2 resists such submission of the petitioner and submits that in the present case, there has been forgery committed at the instance of the accused persons wherein the present petitioner was hand in glove as an employee of the present company who is involved in the case.

Ms. Sinha, learned advocate appearing for the State draws the attention of this Court to the relevant documents available in the case diary and submits that *prima facie* a case has been made out for trial.

On perusal of the records of this revisional application, it appears that the petitioner approached this Court at a stage when the documents, under Section 207 of the Code of Criminal Procedure on which the prosecution intends to rely upon, were not supplied to the accused persons including the present petitioner. The submission of the learned advocate is on the foundation of overall backgrounds of the case, but not related to the documents on which the prosecution has relied upon.

Be that as it may, the petitioner would be at liberty to agitate the points canvassed in this revisional application before the learned Magistrate by way of an application under Section 239 of the Code of Criminal Procedure, if so advised, after the documents, under Section 207 of the Code of Criminal Procedure, have been supplied to him. The present revisional application is premature. As such, no interference is being made by this Court at this stage.

Mr. Ghose, learned advocate appearing for the petitioner submits that the petitioner is a permanent resident of Jalpaiguri and it may not be possible for him to attend the trial court on each and every occasion.

I direct that in case, an application under Section 205/317 of the Code of Criminal Procedure is filed before the learned trial court with necessary undertaking as required under the law, the learned Magistrate would consider the same in the background that whether physical appearance of the petitioner is required on each and every date. However, the petitioner would physically present on specific dates which the learned Magistrate considers that the trial cannot proceed without the presence of the petitioner.

With the aforesaid observations, the revisional application being CRR 1767 of 2017 is disposed of.

Interim order, if any, is hereby vacated.

All pending connected applications, if any, are consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)