

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

Present:

The Hon'ble Justice Ajoy Kumar Mukherjee

**C.R.R. No. 2720 of 2018
CRAN 2 of 2022**

Sri Pannalal Roy

-vs-

The State of West Bengal and another

For the Petitioner : Mr. Manabendranath Bandyopadhyay

For the State : Mr. P.K. Dutta, Ld. APP
Md. Kutubuddin
Mr. Santanu Deb Roy

For the Opposite Party no. 2 : Mr. Sandipan Ganguly
Mr. Pradyut Saha

Heard on : 30.8.2022

Judgment on : 01.09.2022

Ajoy Kumar Mukherjee, J.

1. Being aggrieved and dissatisfied with the investigation of the case being GR case no. 4000 of 2014 pending before the learned Additional Chief Judicial Magistrate Baruipur 24 Parganas (South) arising out of Sonarpur P.S. Case no. 1010 of 2014, dated June 29, 2014 under Section 420/468 of the Indian Penal Code, the petitioner prays for further investigation of the case on the ground

that investigation of the present case has been performed by the Police in most perfunctory manner, warranting further investigation of the case by some other investigating agency for unveiling the truth regarding all the allegations levelled by the petitioner.

2. It is submitted on behalf of the petitioner as a ground for further investigation that at the very inception of the case the Opposite Party no. 2 was enlarged on anticipatory bail by the Hon'ble High Court, Calcutta and taking advantage of the order of his anticipatory bail the opposite party no.2 had never bothered to cooperate with the investigation and the investigation agency sat tight over the matter and did not pray for cancellation of the bail granted to the opposite party no 2 and Police has submitted charge-sheet without interrogating the opposite party no 2. Accordingly petitioner contended that Police had filed charge-sheet and also supplementary charge-sheet based on incomplete investigation without interrogating the opposite party no. 2 and in such circumstances it is most warranted that the allegations levelled by the petitioner by way of FIR be investigated further, by some other investigating agency preferably by C.I.D.(Criminal investigation department).

3. Learned Counsel for the petitioner further, submits that the entire act of forgery alleged in the FIR had taken place in a sub-registry office and as such it is discernable that other officials attached to sub-registry office are also involved in the matter and no investigation was conducted by the Police in this regard and thus the entire truth could not be ascertained. In view of above the present case is required to be investigated further .

4. Mr. Sandipan Ganguly Learned Senior Counsel appearing on behalf of the opposite party no. 2 submits that after completion of investigation Police has submitted charge-sheet and after taking cognizance, charge has already been framed by the Trial Court and the matter pending before the Trial Court for recording evidence. Mr. Ganguly further submits that Magistrate's power under Section 173(8) to order further investigation of an offence can only be made before commencement of trial i.e. before charges are being framed. In this context Mr. Ganguly has relied upon the Apex Court judgement in ***Vinubhai Haribhai Malaviya and others Vs. State of Gujarat and another***, reported in **(2019) 17 SCC 01**.

5. Considered submission made by both the parties. The allegation put forth by the petitioner in the FIR are inter alia to the effect that on January 10 1990, the petitioner and the opposite party no. 2 had jointly purchased a plot of land and thereafter the petitioner had been staying away for his professional pursuit and opposite party no. 2 had been staying on the said plot of land. After his return, when the petitioner demanded his portion of the said plot of land, he came to learn that by forging his signature and fingerprint impression on a gift deed, opposite party no 2 has deceitfully grabbed the petitioner's share of the aforesaid plot of land. It is further contended by Learned counsel appearing for the petitioner that forging his signature and handwriting the opposite party no. 2 i.e. his elder brother has procured a deed of gift in his favour on the basis of false personification.

6. It appears from the Charge sheet that during investigation the investigating authority has seized T.I. Registrar. Signature impression of complainant/petitioner Pannyalal Roy, fingerprint impression of complainant/petitioner herein Pannayal Roy and also fingerprint impression of Accused Jaharlal Roy were sent along with T.I. Registrar to questioned documents examination Bureau, CID West Bengal, who submitted a report wherefrom it appears that the handwriting on the document does not match with the handwriting of complainant/petitioner herein Pannyalal Roy. It further appears that the examiner of questioned document has also been cited in the charge-sheet as witness and Pannyal Roy/petitioner herein has been cited as witness no.1.

7. On perusal of material documents lying in the record I find nothing to conclude that any further investigation is required in the present case. The grievance of the petitioner is that the investigating agency has not interrogated opposite party no. 2/accused Sri Jaharlal Roy and also the concerned officials of the Registry office who caused the registration of the forged deed. This cannot be the ground for ordering further investigation. Even if during trial if it appears before the Court that certain officials of the Registry office or any person associated with the case is required to be examined for ends of justice and to determine the issue in controversy then the Court can very well at any stage of the trial summon any person as a witness or examine any person as a witness even if his name does not transpire as witness in the Charge-sheet, provided it appears before the Court that such evidence appears to be essential

to arrive at just decision of the case. Section 311 of the Code of the Criminal Procedure has been incorporated with the object of finding out the truth or obtaining proper proof of such facts which lead to a just and correct decision of the case and as such the grounds assigned by the petitioner for passing direction for further investigation is not legally sustainable in the eye of Law and as such required to be dismissed.

8. In view of above CRR 2720 of 2018 is dismissed. However this dismissal order will not preclude the Trial Court to invoke power under Section 311 of the Code of Criminal Procedure to summon material witness, if any, and to examine such person as witness, if evidence of any such witness appears to be necessary to do complete justice in the case.

However there shall be no order as to costs

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

(AJAY KUMAR MUKHERJEE, J.)