17.03.2022
Item no. 26
Court No.40.
S.De.

(Via Video Conference)

CRR 3735 of 2019

In Re: An application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

In the matter of : Gautam Dey.

……Petitioner.

Mr. Snehashis Sen,
Mr. Abhishek Banerjee,
……for the Petitioner.

Affidavit-of-Service filed in Court today be kept with the record.

This is an application for quashing of the complaint case A.C. No.5233 of 2019 dated October 23, 2019, under Sections 447/448/341/323/384/509/504/506(2), 120B of the Indian Penal Code, 1860, pending before the learned Judicial Magistrate, 7th Court at Alipore.

On October 23, 2019, learned Additional Chief Judicial Magistrate, Alipore, South 24-Parganas took cognizance upon the said complaint under Section 200 of the Code of Criminal Procedure and transferred the case to the Court of the learned Judicial Magistrate, 7th Court at Alipore.

The complainant/opposite party in paragraph no.1 of his complaint under Section 200 Cr.P.C. to the learned Additional Chief Judicial Magistrate, Alipore, claims himself to be a peace loving and law abiding citizen and discloses his residential address. In paragraph nos. 2, 3, 4, 5 and 6 he says that he has taken loans from different financial institutions, namely Capital First Home Finance Limited, Aditya Birla Finance Limited, HDB Financial Services Limited, Arohan Financial Servies Limited and Ujjivan Small Finance Bank. In paragraph no. 7 he alleges that those financial institutions illegally and unlawfully time to time had debited money from his account for over dues charges, over limits fees, late fees, finance charges retail, finance charges cash, interest, processing fees and other charges violating the guidelines of the Reserve Bank of India. Such violations resulted huge financial loss to him. In paragraph no. 8 it is suggested that on October 3, 2019, he sent separate notices to those financial institutions through his advocate and requested them to supply bank statements regarding the different charges as mentioned aforesaid.

In paragraph no. 9 he alleged that on October 19, 2019, at about 4.30 p.m. the accused persons, who are the agents of the said different financial institutions, jointly trespassed into his residence and using vulgar language demanded a sum of Rs.5,00,000/- from him. He further alleged that they physically assaulted him and threatened him with serious consequences if he fails and neglects to pay the money on account of the aforesaid charges.

In paragraph no. 10 he alleges that because of the unfair trade practice of the opposite parties, he has been subjected to serious hardship, financial loss, damages, inconvenience, mental pain, agony, and trauma. In paragraph no. 11 of the complaint, it has been suggested that the accused persons thus committed offences punishable under Sections 447/448/341/323/ 384/509/ 504/506(ii)/120B of the Indian Penal Code.

I have recorded the contents of the complaint in detail only to indicate the inherent absurdity in the same. It is absolutely unbelievable and absurd that on a particular date the employees of different financial companies, who have their offices at different places in Kolkata, came together and jointly demanded money assaulted the opposite party at his residence.

The grievance of the opposite party in reality revolves around the alleged demand of various fees charged by the said financial institutions in connection with the loan facilitated by them. Whether those charges were in violation of the RBI guidelines or not could be a subject matter of a civil case and it cannot be said that by claiming the same, the accused persons who are employees of different financial companies, have committed any criminal offence.

The petitioner (accused no.4) appears to be an employee of Arohan Financial Services Limited which is one of the companies wherefrom the complainant/opposite party alleged to have taken loan. No specific allegation or role has been attributed against him in the complaint in the alleged commission of offence.

In the facts and circumstances hereinabove I am of the view that the plain reading of the complaint does not suggest commission of the any alleged offence. The complaint is inherently absurd and no criminal case should proceed any further on the basis of such complaint. Accordingly, the complaint case no. being A.C. No. 5233 of 2019 dated October 23, 2019, under Sections 447/448/341/ 323/ 384/ 509/504/506(2),120B of the Indian Penal Code, 1860, pending before the learned Judicial Magistrate, 7th Court at Alipore stands quashed as against the petitioner.

The revisional application being CRR 3735 of 2019 stands allowed.

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

[Kausik Chanda, J.]