

18.11.2022
Item No.34
BR

CRR 4334 of 2008

**In the matter of : Bhagwandas Auto
Finance Ltd.**

Mr. Amarta Ghosh for the petitioner

Mr. N.P. Agarwal,
Mr. Pratick Bosefor the State

This revisional application under Section 482 of the Criminal Procedure Code seeking an order of quashment of the judicial order passed by learned Chief Judicial Magistrate at Alipore in C-7347 of 2008 on 4.10.2008 declining to pass any direction on the petition filed by the petitioner under Section 156 (3) of the Cr P C under the signature of Mr. Vishal Agarwal upon the concerned P.S. to register a case under Section 406/120B of the Indian Penal Code .

Mr. Amarta Ghosh, learned counsel representing the petitioner submits that the opposite party no. 1 happens to be the erstwhile wife of one of the Directors of the company. Mr. Vishal Agarwalla and opposite party no. 3 and 4 are the brothers of the opposite party no. 1. They used to occupy the property given to Mr. Agarwalla as it was attached to the post of Director of the

company. Mr. Agarwalla resigned from the post of Director and moved out of the premises but the opposite parties did not vacate the premises for a considerable period of time. Hence the criminal proceeding was sought to be initiated by the company. In course of hearing it transpires that the company entrusted the immovable property in question along with its fixtures, fittings and other home appliances to the Director for his use and for the use of his family and not with the accused persons. Mr. Amartya Ghosh, learned counsel representing the petitioner further submits that on a subsequent point of time the accused persons moved away vacating the flat and while doing so they had taken valuable articles belonging to the company. However, such submission on factual aspect is not there within the petition under Section 156(c) of the Cr P C . Since admittedly the Director of the company was entrusted with flat and its fixtures and furniture , estranged wife of the Director and her brothers cannot be said to be said to have committed any offense within the meaning of Section 405 of the Indian Penal Code as no entrustment was made with them by the company. Therefore, the impugned order does not warrant any interference. However, the company is at liberty to approach the appropriate Court of law for proper redressal

With this observation the criminal revision is disposed of but without costs.

Let a copy of the judgment be sent to the learned trial Court for information and necessary action.

All parties are to act on the server copy of this order duly downloaded.

Urgent certified copy, if applied for therefore be made available upon compliance of requisite formalities.

(Siddhartha Roy Chowdhury, J.)