

18.05.2022

Item No.39
Ct.No.34
dc.

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

C.R.R. 1458 of 2020

**Vivek Jain
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973 filed for quashing of the proceedings being ACGR Case No. 6079 of 2019 arising out of Jadavpur Police Station Case No. 457 dated 21.12.2019 under Sections 448/385/504/506 of the Indian Penal Code pending before learned Additional Chief Judicial Magistrate, Alipore, South 24-Parganas.

Mr. Dipanjan Dutt,
Mr. Rajiv Kumar,
Ms. Sambrita B. Chatterjee ... For the Petitioner.

Mr. Ranabir Roy Chowdhury,
Mr. Sandip Chakraborty ... For the State.

The present revisional application has been preferred challenging the proceedings arising out of Jadavpur Police Station Case No. 457 dated 21.12.2019 wherein charge-sheet was submitted under Sections 448/385/504/506 of the Indian Penal Code.

I have considered the allegations made in the FIR as well as the materials collected by the investigating agency in course of investigation. On an assessment of the same, I find that the complainant being one Manoranjan Maity was a defaulter of a bank and the present petitioner being associated with the ICICI Bank, Lake Gardens Branch, Kolkata was authorised to enquire regarding the defaulters. I do not find any factual foundation on the basis of which Section 385 of the Indian Penal Code has been invoked by

the police authorities against a defaulter. A bank is entitled to refund of loan by a borrower. In this case, the same is an admitted position.

Mr. Dutt, learned advocate appearing for the petitioner draws the attention of this Court to the decree passed by the learned VIth Bench, City Civil Court at Calcutta in M.S. 360 of 2010.

Having regard to the fact that the petitioner was lawfully authorised to execute his duty, I am of the opinion that the present FIR was initiated at the instance of the complainant with an ulterior motive for the purpose of circumventing the process of law. The proceeding *ex facie* is malafide and the petitioner cannot be held responsible for the purpose for which he has been engaged by the Bank.

On an assessment of overall factual circumstances emerging from the registration of the FIR till filing of the charge-sheet as well as the decree passed by the civil court, I am of the opinion that further continuance of the proceeding arising out of Jadavpur Police Station Case No. 457 dated 21.12.2019 under Sections 448/385/504/506 of the Indian Penal Code as also the charge-sheet filed therein is unwarranted. Accordingly, ACGR Case No. 6079 of 2019 corresponding to Jadavpur Police Station Case No. 457 dated 21.12.2019 including the charge-sheet filed therein and the orders passed by the learned Additional Chief Judicial Magistrate, Alipore, South 24-Parganas are hereby quashed.

Accordingly, the revisional application being CRR 1458 of 2020 is allowed so far as the present petitioner is concerned.

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.)