

09-03-2022
Subha
Item-149
Ct -.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 1794 of 2020

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

In the matter of : ***Sri Prosenjit Dhali***

...Petitioner.

Mr. Prantick Ghosh
Mr. Siddhartha Sarkar
.....for the Petitioner.

Mrs. Sujata Das
Mr. Arijit Ganguly
.....for the State.

The subject matter of challenge relate to the proceedings arising out of Basirhat Police Station Case No. 979 of 2019 dated 22.09.2019 under Sections 406/409 of the Indian Penal Code read with Section 4 of the Prevention of Money Laundering Act, 2002.

The allegations made in the chargesheet are that one Gourpada Sarkar approached the complainant and asked him to deposit Rs.7 lakhs at Amrit Green Club and the complainant deposited the same. The accused persons approached other villagers also and collected more money from them and finally the complainant and others asked for refund of the money. The accused persons denied to return the same thereby cheating the complainant and others.

It has further been alleged that the mode, method, design of

the said Amrit Green Club was in the nature of a chit fund and they had no authorized licence from the RBI to accept deposits.

The Investigating Authority on completion of investigation submitted chargesheet under Sections 406/409 of the Indian Penal Code and Section 4 of the Prevention of the Money Laundering Act, 2002.

Record of this case reflects that the investigation of the case was carried out by the S. I. of Police attached to the Basirhat Police Station. No documents have been placed relating to the authority under which the said S. I. of Police was empowered to investigate the offences alleged under Section 4 of the Prevention of the Money Laundering Act, 2002.

Sections 48 & 49 of the Prevention of Money Laundering Act is set out as follows:-

S.48. Authorities under Act. – There shall be the following classes of authorities for the purpose of this Act, namely:--

- a) Director or Additional Director or Joint Director,
- b) Deputy Director,
- c) Assistant Director, and
- d) Such other class of officers as may be appointed for the purposes of this Act.

S.49. Appointment and powers of authorities and other officers. – (1) The Central Government may appoint such persons as it thinks fit to be authorities for the purposes of this Act.

(2) With prejudice to the provisions of subsection(1), the Central Government may authorize the

Director or an Additional Director or a Joint Director or a Deputy Director or an Assistant Director appointed under that sub-section to appoint other authorities below the rank of an Assistant Director.

(3) Subject to such conditions and limitation as the Central Government may impose, an authority may exercise the powers and discharge the duties conferred or imposed on it under this Act.

A Sub Inspector of Police do not fall under the aforesaid categories mentioned in Sections 48 and 49 of the Prevention of Money Laundering Act, 2002 and neither any document has been enclosed which empowered such S. I of Police to act under the relevant provisions of the Prevention of Money Laundering Act, 2002.

The same being barred, the S.I of police will be entitled to send the chargesheet filed in the instant case to the appropriate authorities, but so far as the instant case is concerned, the provisions of Prevention of Money Laundering Act are not to be applied in view of the S.I of Police not being authorized.

Accordingly, the trial of the case would proceed under Sections 406/409 of the Indian Penal Code or under any other relevant section which the learned trial court may deem fit and proper under the Indian Penal Code.

No charges can be framed under Section 4 of the Prevention of Money Laundering Act as the Investigating Officer did not have the authority to investigate the same under such Act.

Accordingly, the present revisional application being CRR 1794 of 2020 is partly allowed.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

Interim order, if any, is, hereby, allowed.

All concerned parties are to act in terms of a website copy of this order duly downloaded from the official website of this court.

(Tirthankar Ghosh, J.)

