

15.09.2022

Item No.24

Ct.No.2

dc.

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 110 of 2021

**Md. Shamim Siddiquie
versus
The State of West Bengal & Anr.**

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

Mr. Santanu Maji

... For the Petitioner.

Mr. Aditi Shankar Chakraborty,
Mr. Aniruddha Biswas

... For the State.

This revisional application was preferred challenging the proceedings arising out of Kotwali Police Station Case No. 157 of 2013 dated 31.01.2013 under Sections 409/120B of the Indian Penal Code. The investigating agency on completion of investigation, submitted charge-sheet. Records reflect that one of the accused viz. Surajit Saha is still absconding and the warrant of arrest is pending. Records also reflect that charge-sheet was filed in the year 2020 and cognizance was taken on 13.05.2020. As such, the warrant of arrest is pending for more than two years. Ordinarily the charge-sheet should have been filed before the learned Special Court. However, in this case, I find that the charge-sheet has been submitted before the learned Chief Judicial Magistrate, Jalpaiguri.

As the execution of warrant of arrest is pending against one of the accused viz., Surajit Saha, the next stage of the

case cannot be proceeded to. As such, the learned Chief Judicial Magistrate, Jalpaiguri is directed to see that the warrant of arrest is either executed or a report be obtained so that the court can proceed to the next stage of proclamation and attachment.

Mr. Uday Shankar Chattopadhyay, learned advocate for the petitioner submitted on the earlier occasion that the petitioner is innocent of the charges and the decision was taken by a Board of Members wherein the petitioner could not have exercised his sole discretion in respect of disbursal of the loan.

Learned advocate for the State has produced the case diary. It was brought to the notice of the Court that the loan was sanctioned for only Rs.2,00,000/- (rupees two lakh). However, the disbursal letter contains Rs.20,00,000/- (rupees twenty lakh) which was subsequently enhanced to Rs.25,00,000/- (rupees twenty-five lakh). The basic factual foundation of the case is in respect of the amount which was approved and the amount which was disbursed and subsequently obviously the attending circumstances of the misappropriation of the said money to which it has been alleged that the present petitioner is a part of the conspiracy.

Having regard to the nature of the case and the materials which have been collected by the investigating agency, I am of the opinion that it would not be possible to arrive at a conclusion thereby holding that the petitioner has

not committed the offences as alleged, that would be prejudging the issues or at least the charges brought by the prosecution. Having regard to the materials which have been collected by the investigating agency, I am of the opinion that there is no scope for interference with the proceedings at this stage.

However, the alternate prayer advanced by Mr. Chattopadhyay, learned advocate for the petitioner that steps may be taken for expediting the trial of the case, I am of the view that until and unless the process is exhausted, there may be some difficulties in reaching the stage of consideration of the charges.

Accordingly, the learned Chief Judicial Magistrate, Jalpaiguri is directed to complete the process of appearance of all the accused persons. In case, the accused viz. Surajit Saha cannot be compelled to face the consequence of the criminal trial, the learned Magistrate would segregate the rest of the accused persons and send the records of the case to the appropriate court for proceeding with the trial.

With the aforesaid observations, the revisional application being CRR 110 of 2021 is disposed of.

Interim order, if any, is hereby vacated.

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.)