

12.07.2023

Item No.8
Ct.No.34
dc.

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

C.R.R. 171 of 2023

In the matter of : **Harsh Freight Carrier & Anr.** ... Petitioners.

Mr. Ranjan Kali,
Mr. M. Chakraborty,
Mr. A. Maity,
Ms. Payel Nath ... For the Petitioners.

The present revisional application has been preferred challenging the proceedings being Complaint Case being C. 1418 of 2022 under Section 138 of the Negotiable Instruments Act which is pending before the learned Chief Judicial Magistrate, Alipore.

Learned advocate appearing for the petitioners submits that the complainant was a guarantor and there was no liability in respect of the cheque which is the subject-matter as the said cheque was snatched and was not issued in usual course of business. Additionally, it has been submitted that in the reply notice, the same contentions were advanced and the complainant suppressed such reply notice and compelled the learned Magistrate to take cognizance of the offence.

As a sequence of the aforesaid points, the learned advocate for the petitioners submits that there is no existing debts or liability which the legally enforceable and as such, the continuance of the aforesaid proceedings is an abuse of the process of law.

I have considered the aforesaid four issues which have been submitted by the learned advocate for the petitioners

and I am of the opinion that each of the aforesaid issues are question of facts wherein the complainant who has initiated the case should be granted opportunity to place her evidence and thereafter the accused would get an opportunity to rebut such contentions. None of the points can be summarily decided by a court particularly, in course of proceedings under Section 482 of the Code of Criminal Procedure. The issues so canvassed do not weigh with this Court under any of the parameters of Section 482 of the Code of Criminal Procedure. As such, no interference is called for.

The petitioners would be at liberty to take up such points in course of trial of the case.

With the aforesaid observations, the revisional application being CRR 171 of 2023 is disposed of.

Pending connected application, if any, is consequently disposed of.

All concerned 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.)