

13.03.2023  
Jaydev

**CRR 512 of 2023**

**Gopal Jha  
-Vs-  
Central Bureau of Investigation**

For the petitioner:        Mr. Sudipto Maitra, Sr. Adv.,  
                                      Mr. Vijay Verma, Adv.,  
                                      Mr. Dwaipayan Biswas, Adv.,

The petitioner was the bearer of cash credit facility to the tune of Rs.1,50,00,000/- by furnishing collateral securities and by depositing original title deeds of the immovable properties and further hypothecated stock in trade and machinery. On the basis of an allegation made by the banking institution C.B.I registered a case under Sections 419/420/467/471 of the IPC against the petitioner alleging, inter alia, that the petitioner herein failed to deposit the loan amount within the stipulated period of time. The petitioner also committed cheating by inducing the bank to grant cash credit facility in favour of the petitioner by forging certain deeds and documents. Along with the criminal case, the Bank of India had also moved before the Debt Recovery Tribunal praying for recovery of outstanding loan amount. Meanwhile, ASREC (India) Ltd, a securitization and asset reconstruction company was assigned with all collateral securities along with all the deeds, title, claim and securities by a registered agreement dated 23<sup>rd</sup> December, 2008. Thereafter, the claim of ASREC (India) Ltd was settled by a mutual understanding between the petitioner and bank and a compromise settlement was reached whereby on 15<sup>th</sup> October, 2014 a no due certificate was issued by ASREC in favour of the

petitioner and the proceedings before the Debt Recovery Tribunal was disposed of as withdrawn. The petitioner thereafter filed an application under Section 239 of the Cr.P.C praying for discharging him from the criminal case. The said application having been rejected, the petitioner moved in revision before the learned Additional Sessions Judge, Fast Track Court No.II, Kolkata. The learned Judge in the first revisional court was pleased to dismiss the application filed by the petitioner and confirming the order of the learned Magistrate. The petitioner subsequently moved this court in CRR No.2908 of 2018 with two fold prayers of setting aside the order dated 17<sup>th</sup> July, 2018 and affirming the order dated 17<sup>th</sup> May, 2016 passed by the learned Metropolitan Magistrate 21<sup>st</sup> Court in GR Case No.2252 of 2009. A Coordinate Bench dismissed the said revisional application vide order dated 12<sup>th</sup> August, 2022.

In the instant petition, the petitioner has prayed for quashing of the impugned proceeding in connection with Case No. RC08/E/2008-Kolkata dated 22<sup>nd</sup> September, 2008 under Sections 120B read with Sections 419/420/467/471 of the IPC, and subsequent charge-sheet being Charge-Sheet No.4 of 2009 dated 11<sup>th</sup> September, 2009 as well as the charge framed on 18<sup>th</sup> May, 2016 against the petitioner under Sections 120B/420/468/471 of the IPC.

I have heard Mr. Sudipto Maitra, learned Senior Counsel on behalf of the petitioner. I have carefully perused also the order passed by a Coordinate Bench of this Court in CRR No.2908 of 2018.

In CRR No.2908 of 2018 this Court dismissed the prayer of the petitioner and directed the trial court to frame charge against the accused. It is contended by

the learned Advocate for the petitioner that when the liability of the petitioner was assigned to ASREC (India) Ltd and the said assignee took charge of all collateral securities including deeds and documents, it is presumed that the deeds and documents submitted by the petitioner were genuine and there was no forgery as alleged by the complainant.

Even if the submission made by the learned Senior Counsel on behalf of the petitioner is accepted in its face value this Court is constrained to note that when charge has been framed against the accused/petitioner of such fact alleged by the petitioner is required to be proved in the trial court by adducing evidence.

At this stage criminal proceeding cannot be quashed. Therefore, I do not find any merit in the instant revision and accordingly the revisional application is dismissed.

**(Bibek Chaudhuri, J.)**