30.03.2023

Court No.35
Item No. 20

D.Hira

<u>CRR 645 of 2016</u>
<u>With</u>
<u>CRAN 2 of 2016 (Old No. CRAN 4494 of 2016)</u>

Naveen Purbey @ Navin Purbey
Vs.
The State of West Bengal & Anr.

Mr. Sourav Chatterjee.
... for the petitioner

Mr. Narayan Prasad Agarwala,
Mr. Pratick Bose.
... for the State

The petitioner who has been an employee of Canara Bank at SME Durgapur Branch, is now terminated from service. Against him, a criminal proceeding was initiated vide the FIR, that is, Coke Oven Police Station Case No. 15 of 2015 dated 31.1.2015 under Sections 467/471/420 of the Indian Penal Code.

Petitioner has challenged the said proceedings, being registered as G.R. case no. 174 of 2015 in the Court of Additional Chief Judicial Magistrate, Durgapur, Burdwan.

According to the petitioner, the FIR dated 16.01.2015 is devoid of any material to find a cognizable offence alleged therein, against him.

Mr. Chatterjee, learned Advocate appearing for the petitioner has submitted that the amount of loan allegedly withdrawn by the petitioner in the name of some false proprietor and fake person, has already been submitted to the bank and made good by the petitioner.

He has further submitted by referring to the said FIR that the defacto complainant has alleged about non-compliance of Reserve Bank of India's KYC guidelines by the petitioner which, however, according to him, shall have no barring as to commission of any crime by the petitioner under the Indian Penal Code, as alleged.

Finally Mr. Chatterjee has submitted that after being initially suspended from service his client is now terminated from the defacto complainant/petitioner.

State is represented and supports prosecution case.

FIR being Coke Oven police station case no. 15 of 2015 dated 31.1.2015 under Sections 467/468/420 of the Indian Penal Code was lodged by the senior manager, Durgapur SME Branch, Canara Bank. Allegedly, the present petitioner who at the relevant point of time was working as a senior manager in the said branch, sanctioned an OCC loan on 24.02.2014, of an amount of Rs.19 lakhs. The defacto complainant/bank has alleged that the loan was sanctioned in the name of some fictitious enterprise and fictitious person.

Fictitious accounts were also opened by the present petitioner to apportion the loan amount unlawfully withdrawn from the bank, as alleged.

Thus, the defacto complainant has alleged of commission of forgery, criminal misapprociation, breach of trust against the present petitioner. It however, appears in this case that ultimately there has been no wrongful loss of the defacto complainant as the entire amount of OCC loan allegedly withdrawn by the present petitioner in the name of some fictitious company/person, had finally been paid of by him towards bank. Therefore, even before ascertaining existence of any prima facie material against the petitioner, so far as the alleged offences are concerned and to find any cognizable offence made out in the case against the petitioner, bank's grievance was mitigated.

It further appears that the petitioner is no more in service with the bank as before and their relationship as employment and employee has severed long ago.

Under such circumstances, I find that there would be no impediment of this Court to invoke power under Section 482 of the Code of Criminal Procedure and interfere into the said proceedings against the present petitioner.

On the findings as above, the present case being CRR 645 of 2016 is allowed. The criminal proceedings in G.R. Case no. 174 of 2015 is quashed and set aside.

Interim order, if any, stands vacated.

All pending applications, if any, are consequently disposed of.

Certified website copies of this order, if applied for, be supplied to the parties subject to compliance with all the requisite formalities.

(Rai Chattopadhyay, J.)