

IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

CRR 472 OF 2015

with

CRAN 2 OF 2015

(Old No. CRAN 2893 of 2015)

Ramesh Kumar Agarwal & Anr.

Vs.

The State of West Bengal & Anr.

For the Petitioners : Mr. Phiroze Edulzi,
: Mr. Kaushik Kundu,

For the State : Ms. Anasuya Sinha,
Mr. Pinak Kumar Mitra,.

For the Opposite Party No.2 : Mr. Raghunath Das,

Heard lastly on : 20.03.2023

Judgement on : 20.03.2023

Jay Sengupta, J. :

This is an application for quashing of the proceeding in which a chargesheet was submitted under Sections 406 and 420 read with Section 120B of the Indian Penal Code.

A letter dated 28.02.2023 issued by the petitioners to their Learned Advocate on record, as filed in Court, is taken on record.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioners and the defacto complainant /opposite party had a business relationship between themselves. There were continuous business transactions between the parties since 2008. It was alleged in the FIR dated 09.05.2013 that the petitioners had induced the company by virtue of an agreement dated 17.01.2013 to pay Rs. 5,40,000/- to them for delivery of 30 M.T. of yellow peas, but the accused only delivered 8.23 M.T. of yellow peas to the complainant and thereby, misappropriated the rest of the amount to the tune of Rs. 4,42,659/-. However, before 03.08.2013 the date on which the accused was granted anticipatory bail by the learned Sessions Judge, an understanding had been arrived at between the private parties and by that date, the due sum of Rs. 4,42,659/- had been paid by the accused/petitioners to the defacto-complainant/opposite party. It was clearly understood between the parties that none of the parties would proceed against each other. However, the proceeding lingered on. On merits, no prima facie case is made out against the petitioners as would be evident from a plain reading of the First Information Report and the chargesheet. Besides, this is a case of mere non-performance of contract and part delivery of goods. There was no intention of the accused to cheat anyone. During the present proceeding,

a further compromise was entered into between the private parties and a letter is being filed by the petitioners stating that the dispute was amicably settled and that they would not file any claim in this regard in future. It was agreed that if the accused/petitioners gave it in writing that they were not willing to proceed against the defacto complainant, they would have no objection for having the proceeding quashed.

Learned counsel appearing on behalf of the defacto complainant submits as follows. The goods were supposed to be supplied on the basis of advance payment made in part. However, some time after the lodging of the FIR, the informant received full amount from the accused that was due in respect of the instant proceeding. In view of the above and considering the letter filed by the petitioners in this regard, the defacto complainant has entered into a final compromise and settlement with the accused/petitioners and would have no objection if the proceeding is quashed on the ground of compromise and settlement.

Learned counsel appearing on behalf of the State, in his usual fairness, submits that admittedly the case arises out of a commercial transaction and the State would not like to come in the way if a compromise is arrived at between the private parties.

I have heard learned counsels for the parties and have perused the revision petition and the case diary.

It is not that no criminality can arise out of a commercial transaction. However, this is a case where there have been continuous business transactions between the parties and there was a part delivery of goods pursuant to the payment made.

It appears that some kind of settlement might have been purportedly arrived at between the parties before the accused/petitioners were granted anticipatory bail. By that time, the entire amount due was paid by the accused to the defacto complainant. It also appears that a final compromise and settlement has been arrived at and in view of the undertaking given by the petitioners that they would not proceed against the defacto complainant in respect of the connected transactions, the private parties have agreed that the impugned proceeding may be quashed.

In view of the above discussions and in the interest of justice, I quash the impugned proceeding being Trial No. 17/14 corresponding to GR Case No.1608/13 arising out of Ultadanga Police Station Case No. 135 dated 09.05.2013 under Section 420 of the Indian Penal Code presently pending before the learned Additional Chief Judicial Magistrate, Sealdah, South 24 Parganas.

The revisional application being CRR 472 of 2015 and application being CRAN 2 of 2015 are, accordingly, disposed of.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)