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C.R.R.1077 of 2021

In Re: An application under Section 482 read with Section 401 of the
Code of Criminal Procedure, 1973;

Gopal Roy
Versus
The State of West Bengal and another

Mr. Subir Banerjee,
Mr. Sandip Bandyopadhyay,
Mrs. Ruxmini Basu Roy.
...for the petitioner.

Mr. Binay Panda,
Ms. Puspita Saha.
...for the State.

The present revisional application has been preferred
challenging the proceedings arising out of Raiganj Police Station
Case no.804 of 2016 dated 29.06.2016 under Sections
420/406/506/34 of the Indian Penal Code.

The present case was registered pursuant to a complaint
lodged by one Manali Ghosh with the Officer-in-Charge of Karnojora
outpost which is associated with Raiganj Police Station. The
allegations made by the complainant was that she is a fashion
designer and she is a resident of Nasik, Maharashtra. She placed
orders with the accused Gopal Roy for supplying modern dress at
fashion shows and for the said purpose, she paid a sum of
Rs.9,00,000/- in installments from 16.07.2013 to February, 2015.
Detailing the payments the complainant stated that in the month of
February, 2015, she paid the accused a sum of Rs.3,25,000/- in
cash and also transferred money in the account of the elder brother
of the accused, namely, Dipankar Roy, maintained with the ICICI

bank. She alleged that she had an acknowledgement of a sum of Rs.5,00,00/- by the accused Gopal Roy. The complainant states that from face book she came to learn that the accused has defrauded one Amiya Kumar Jana, an employee of Information and Broadcasting Department, Government of West Bengal for which an FIR was registered against him. After having knowledge of the aforesaid incident, the complainant asked the accused for refund of her advance when the accused threatened to murder her as also her daughter. The complainant also lodged a complaint at Nasik Police Station. She enclosed a copy of the complaint which she had wrote with Nasik Police Station as also the agreement for supply of dress for "Bangalore Fashion Week-2013" and for the purposes of the act and conduct of the accused, complainant requested the Officer-in-Charge to take steps against the accused person.

On receipt of information Raiganj Police Station Case No.804 of 2016 dated 29.06.2016 was registered for investigation under Sections 420/406/506/120 of the Indian Penal Code and on conclusion of investigation, charge-sheet was filed before the jurisdictional court. A perusal of the charge-sheet reflects that the Investigating Officer in order to prove his case relied upon eight witnesses namely, complainant, Manali Ghosh, Pranab Debabrata Ghosh, Renuka Bhouda, Gurupada Sarkar, Amiya Kumar Jana and three police officers, namely, S.I. Prasanta Rai, A.S.I. Goutam Das, S.I. Santosh Karmakar.

On an assessment of the report so submitted under Section 173 of the Code of Criminal Procedure, it reflected that the

Investigating Officer did not rely upon any document in a case wherein charge-sheet has been filed under Sections 420/406/506/120B of the Indian Penal Code. The Investigating Officer was called. However, the Investigating Officer refers to same documents which were sent by postal service and are cryptic documents the possibility of which being connected with the present case seems to be remote. There is a reflection of the work done by the Investigating Officer in the report under Section 173 of the Code of Criminal Procedure which is set out as follows:

“During investigation IO ASI Goutam Das visited PO, prepared rough sketch map of PO with index, examine available witness and recorded their statements u/s 161 CrPC. Several attempts were made for arrest of FIR named person but found him absent from house. On his transfer the case was endorsed to me for its investigation.

During investigation it revealed that the complainant introduced once Gopal Roy s/o Dhiren Roy of Paschim Udypur Raiganj, Uttar Dinajpur who is a fashion designer and reportedly they made an agreement for Bangalore Fashion Week, 9th Edition commence from 25th – 28th July, 2013. For this purpose the complainant give money to Gopal Roy for garments but he neither supply the garments nor return the money to the complainant. I contacted with the complainant several times over telephone and she sent some documents

through courier service which is enclosed with case diary.”

Having considered the materials appearing in the case diary, I am of the opinion that there are only oral statements, neither the bank documents were collected nor any documents relating to money transfer were seized in accordance with approved provisions of Code of Criminal Procedure. The non-availability of any documentary evidence supporting the contention of the complainant do make the case of the prosecution hollow and the continuance of the same would be a mere formality, as such, I am of the opinion that further continuance so far as the Raiganj Police Station Case No.804 of 2016 dated 29.06.2016 under Sections 420/406/506/120B of the Indian Penal Code is unwarranted in the facts and circumstances of the present case.

Accordingly, all further proceedings in connection with Raiganj Police Station Case No.804 of 2016 dated 29.06.2016 under Sections 420/406/506/120B of the Indian Penal Code pending before the learned Chief Judicial Magistrate, Raiganj is hereby quashed.

Thus, CRR 1077 of 2021 is allowed.

Pending application, if any, is consequently disposed of.

However, it is hereby directed that if the complainant intends to proceed against the accused, the complainant would be at liberty to invoke Section 200 of the Code of Criminal Procedure by producing relevant and pertinent documents before the learned CJM, Raiganj in respect of her allegations.

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 of all requisite formalities.

(Tirthankar Ghosh, J.)