

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

CRR 1009 of 2017

Koushal Kishore Agrawalla
Vs.
The State of West Bengal & Anr.

Mr. Saibal Mondal
... For the petitioner

Mr. Prasun Kumar Datta, Ld. APP
Mr. Abhra Mukherjee
Mr. Dipankar Mahata
... For the State

This revisional application has been filed with a prayer for quashing the proceedings in connection with GR Case No.1244 of 2016 arising out of Bhabanipur Police Station Case No.213 of 2016 dated 26th July, 2016 under Sections 420/406 of the Indian Penal Code pending before the learned Additional Chief Judicial Magistrate, Haldia.

Briefly stated, the opposite party no.2/complainant lodged a complaint under Section 156(3) of the Code of Criminal Procedure before the learned Additional Chief Judicial Magistrate, Haldia, with a prayer for direction upon the Officer-in-Charge, Bhabanipur Police Station, to register a case against the petitioner for non-payment of dues as there was business transaction between the parties. Accordingly, Bhabanipur Police Station Case No.213 of 2016 dated 26th July, 2016 was registered under Sections 420/406 of the Indian Penal Code.

During investigation, Investigating Officer relying on a Memorandum of Understanding between the parties submitted charge sheet against the petitioner for non-payment of dues under Sections 420/406 of the Indian Penal Code.

Learned advocate on behalf of the petitioner has drawn my attention to the documents showing all dues to the complainant and finally submitted that on 9th December, 2015 all dues were paid by the petitioner by drawing a cheque to the tune of Rs.10,00,000/- and the complainant received the amount towards full and final settlement for extra service rendered to the petitioner's company and that was endorsed by the opposite party no.2 on 16th December, 2015. But again he filed an application under Section 156(3) of the Code of Criminal Procedure on 19th February, 2016, i.e., in spite of receiving all the dues on 16th December, 2015, he lodged complaint under Section 156(3) before the learned Additional Chief Judicial Magistrate, Haldia.

On careful perusal of the charge sheet, I find that Investigating Officer only relied on the Memorandum of Understanding showing business ties between the parties and submitted charge sheet after examining the witnesses under Section 161 of the Code of Criminal Procedure but could not take into account the allegation made in the application under Section 156(3) of the Code of Criminal Procedure.

According to the complainant/opposite party no.2, complainant was filed only on the ground of non-payment of dues for

which complainant could have knocked the door of civil court by filing money suit.

However, considering all facts and circumstances, I am of the opinion that the proceeding with the trial would result in an abuse of process of Court and will not serve ends of justice.

In the premises set forth above, the proceedings in connection with GR Case No.1244 of 2016 arising out of Bhabanipur Police Station Case No.213 of 2016 dated 26th July, 2016 under Sections 420/406 of the Indian Penal Code stands quashed.

With the aforesaid observation, the revisional application, being CRR 1009 of 2017, stands disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

Criminal Section is directed to supply certified copy of this order, if applied for, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)