

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 1317 of 2023

**Jatin Dinesh Kumar Joshi & Anr.
Vs.
State of West Bengal & Anr.**

**For the petitioner : Mr. Nishant Shukla,
Ms. Minal Palana,
Mr. Abhishek Jhunjhunwala.**

Judgement on : 27.04.2023.

Bibek Chaudhuri, J.

The petitioners are the directors of M/s. Country Wide Logistic India (P) Ltd. The petitioners have prayed for quashing of the proceeding in connection with GR Case No.1064 of 2020 arising out Dankuni Police Station Case No.146 dated 17th August, 2020 under Sections 420/120B of the IPC presently pending before the Additional Chief Judicial Magistrate at Serampore.

It is the case of the petitioner that an agreement was executed on 1st February, 2019 between the petitioners and New City Carrier Pvt. Ltd. to the effect that the said company would act as a route vendor for the petitioners. Thereafter the said company of which the complainant is the authorised representative engaged its vehicles exclusively for the service of the petitioners for transporting their materials from Howrah to Nagpur to Surat to Howrah upon the terms

and conditions as incorporated in the said agreement. Till the month of November, 2019 a total sum of Rs.8,27,179/- became due as dispute raising several bills and invoices the petitioners failed to make payments and thus the petitioners committed cheating in respect of Rs.8,27,180/-.

Making the above stated allegations the opposite party No.2 filed an application under Section 156(3) of the Cr.P.C before the learned Additional Chief judicial Magistrate at Serampore. The said application was sent to the jurisdictional police station by the learned Magistrate directing him to treat the said application as First Information Report and start a specific case against the petitioners. Accordingly Dankuni Police Station FIR No.146 dated 17th August, 2020 was registered. During investigation of the case the petitioners were served with a notice under Section 41A of the Cr.P.C, however, they expressed their inability to appear before the investigating officer. On completion of investigation, police submitted charge sheet against the accused persons under Sections 420/120B of the IPC. The learned Additional Chief Judicial Magistrate, Serampore took cognizance of offence on the basis of the said charge-sheet against the petitioners and issued bailable warrant of arrest against them.

It is submitted on behalf of the petitioner that on 12.10.2022 an agreement for settlement of the dispute was executed between the petitioners and New City Carrier Pvt. Ltd. As per the said agreement the New City Carrier Pvt. Ltd had received an amount of Rs.6 lakhs as full and final settlement from the petitioners vide cheque No.0001164 dated 1st August, 2022 drawn on Kodak Mahindra Bank, Amadabad. Even after settlement of the dispute the criminal case has been registered against the petitioners without any reason whatsoever. The

petitioners had no mens rea to commit offence under Section 420 of the IPC. The opposite party No.2 suppressed the material fact of settlement of the dispute and lodged a false complaint against the petitioners.

I have heard the learned Advocate for the petitioners.

In connection with Dankuni Police Station Case No.146 of 2020 which charge sheet has been submitted against the petitioners. The learned Magistrate took cognizance on the basis of the materials available in the charge sheet. At this stage, I am of the considered view that this is not a fit case for quashing.

The petitioners are at liberty to move the Trial Court showing the document of settlement before it for discharging them from the case.

This Court could have dropped Dankuni Police Station Case No. 146/2020 but while exercising the revisional jurisdiction this Court is of the view that the settlement arrived at during the investigation of the case should be taken into consideration by the Trial Court. Therefore, the instant revision is disposed of directing the Trial Court to consider the memorandum of settlement executed by and between the parties in presence of the parties and/or their representatives and then pass necessary order in accordance with law within three weeks from the date of communication of the order. Execution of warrant of arrest issued against the petitioner be stayed for a period of four weeks.

The petitioner is at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 11.