

Form J(1)

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

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

CRR 1635 of 2022

**Vineet Nahata
Vs.
The State of West Bengal and Anr.**

Mr. Samrat Chowdhury
Mr. Biswajit Chowdhury
....for the petitioner

Mr. Somnath Gangopadhyay
..for the O.P. No.2.

Mr. Ranabir Roy Chowdhury
Mr. Sandip Chakraborty
..for the State

Item No. 02

Heard & Judgment on: 28.02.2023

Bibek Chaudhuri, J.

A queer submission has been made by the learned advocates for the parties. It is submitted on behalf of the

petitioner that on payment of agreed debt with interest the dispute between the parties has been amicably settled. Therefore, the instant matter is listed under the heading "To Be Mentioned" for disposal on the basis of such settlement. Learned advocate for the opposite party No.2, on the other hand concedes receipt of money with interest from the petitioner but at the same time it is submitted by him that the de facto complainant is not a signatory of any settlement petition. If the Court finds that an offence under Sections 420/409 of the Indian Penal Code could be quashed on the basis of the money with interest which has been misappropriated. It is open for the Court to dispose of the instant revision by quashing the criminal proceeding pending in the trial Court. The ingredients of offence under Section 405 of the Indian Penal Code by which Section 409 of the Indian Penal Code relates to the same kind of offence committed by special classes of persons, momentary retention and misappropriation of money makes the offence complete. Subsequent payment of misappropriated money with interest does not absolve the petitioner for quashment of a criminal proceeding.

It is submitted by the learned advocate for the petitioner that on receipt of money by the de facto complainant the criminal proceeding in the trial Court will be a futile exercise.

In view of the above discussion, I cannot agree with the submission made by the learned advocate for the petitioner. However, the parties are at liberty to raise the issue before the trial Court and the trial Court shall consider without being influenced in any way on the observation made hereinabove in this order.

For the reasons recorded above, I do not find any merit in the instant revision and accordingly the instant revision is **dismissed.**

(Bibek Chaudhuri, J.)