

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

Present:

The Hon'ble Justice Tirthankar Ghosh

C.R.R. 1244 of 2021

***Joydeep Sengupta
versus
The State of West Bengal & Anr.***

For the Petitioner : Mr. Kaushik Chatterjee,
Mr. Tirthankar Dey.

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

Heard On : 01-05-2023 & 02-05-2023.

Judgement On : 02-05-2023.

Tirthankar Ghosh, J. :

The present revisional application has been preferred challenging the proceedings arising out of Ghola Police Station Case No. 180 of 2021 dated 23.03.2021 under Sections 323/341/325/379/506/34 of the Indian Penal Code wherein the learned Magistrate after submission of charge-sheet was pleased to take cognizance of the offence in respect of the alleged offences under Sections 341/323/506 of the Indian Penal Code under which the investigating agency filed charge-sheet.

The present case was initiated on the basis of an application under Section 156(3) of the Code of Criminal Procedure by one Dulal Dey (hereinafter referred to as the 'complainant'). The allegations made in the application under Section 156(3) of the Code of Criminal Procedure were to the effect that the complainant had taken loan from Chola Mandalam Finance Company, Barasat Branch for the purpose of purchasing a four-wheeler vehicle. He had purchased such vehicle bearing registration No. WB-23E-9378. The complainant states that he had been regular in paying the EMI, however, on 05.03.2021 at about 11 a.m., the accused/petitioner along with his antisocial associates resisted the complainant at Muragacha More and demanded the vehicle. The complainant protested to the abuse being hurled as well as for demand of the vehicle when he was assaulted with fists and blows by the accused and his associates. Further, the accused persons snatched a sum of Rs.10,000/- from his pocket and forcibly took away his vehicle. At the time of leaving, the accused and his associates threatened the complainant of dire consequences. Because of the blows inflicted and injury sustained, the complainant was treated in a Clinic.

On the basis of the aforesaid allegations in the application under Section 156(3) of the Code of Criminal Procedure, the learned Additional Chief Judicial Magistrate, Barrackpore was pleased to direct the Inspector-in-Charge, Ghola Police Station to investigate into the allegations treating the petition of complaint as FIR. Accordingly, Ghola

Police Station Case No. 180 of 2021 was registered for investigation under Sections 323/341/325/379/506/34 of the Indian Penal Code. On conclusion of investigation, charge-sheet was submitted before the learned Magistrate under Sections 341/323/506 of the Indian Penal Code against the accused/petitioner.

Mr. Chatterjee, learned advocate appearing for the petitioner submits that the petitioner was working as a Senior Executive of Barasat Branch of Cholamandalam Investment and Finance Company. It was also submitted that the complainant took loan of Rs.5,12,000/- for purchasing a vehicle. As per the terms entered between the company and the complainant, it was decided that by way of 66 equal monthly instalments of Rs.12,665/- per month, the loan would be diluted. Referring to the enclosures, learned advocate submitted that a notice was served for default in respect of monthly instalments required to be paid and also for recalling of the loan in view of the accumulation of the dues to the extent of Rs.4,82,174/-. By way of such notice, the said sum was directed to be paid within a period of ten days. An intimation was also sent to Ghola Police Station for taking possession of the vehicle. Learned advocate relied upon a series of judgements of the Hon'ble Supreme Court to substantiate his contention that if a vehicle is repossessed from a defaulter by a finance company, in that case the criminal case which is instituted for satisfying the personal vendetta is liable to be quashed.

Learned advocate for the petitioner has relied upon decisions of the Hon'ble Supreme Court in ***Sardar Trilok Singh and others Vs. Satya Deo Tripathi*** reported in ***(1979) 4 Supreme Court Cases 396*** and ***Charanjit Singh Chadha and others Vs. Sudhir Mehra*** reported in ***(2001) 7 Supreme Court Cases 417***.

Learned advocate for the State has placed the case diary before this Court and submitted that as the police authorities after completion of investigation has submitted charge-sheet, the proceedings should be allowed to be taken to its logical conclusion.

I have considered the charge-sheet and I find that apart from the two police witnesses, the investigating agency has relied upon three witnesses which included (1) the complainant Dulal Dey, (2) Aruna Dey, wife of Dulal Dey and (3) Debalina Dey, daughter of Dulal Dey. I have considered the statements recorded under Section 161 of the Code of Criminal Procedure of the daughter and wife of the complainant who are the only supporting witnesses in the case and I find that they have only reiterated the contentions of the complainant. The case diary do not reflect collection of any injury report or any other document on which the investigating agency has based its finding to substantiate the contention of the vehicle being repossessed or vehicle being snatched. In fact, so far as the documents are concerned in the formal charge-sheet under the column referring to serial no.11, the same has been kept

blank. No accounts are also forthcoming as to whether the complainant paid any monthly instalment towards the loan.

Having regard to the materials collected by the investigating agency and the proposition of law as settled by the Hon'ble Supreme Court in **Sardar Trilok Singh** (supra) in respect of hire purchase agreement relating to repossession of vehicle by the financier, I am of the opinion that further continuance of the proceedings arising out of Ghola Police Station Case No. 180 of 2021 dated 23.03.2021 including the charge-sheet filed therein is liable to be quashed.

Accordingly, the revisional application being CRR 1244 of 2021 is allowed.

Pending connected applications, if any, are consequently disposed of.

Case diary be returned to the learned advocate appearing for the State.

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 with all requisite formalities.

(Tirthankar Ghosh, J.)