

04.07.2023

Item No.27
Ct.No.34
dc.

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

C.R.R. 1801 of 2022

In the matter of : **Alokesh Das & Anr.** ... Petitioners.

Ms. Soni Ojha,
Ms. Sonia Nandy ... For the Petitioners.

Mr. P. K. Dutta,
Mr. S. Deb Roy ... For the State.

Affidavit-of-service filed in Court today be kept on record.

The petitioner nos. 1 and 2 are the Sales Manager and Senior Manager of L & T Housing Finance Ltd. respectively who have been implicated in connection with Complaint Case No. AC-5614 of 2019 under Sections 420/406/384/120B/34 of the Indian Penal Code which is pending before learned Chief Judicial Magistrate, Alipore, South 24-Parganas.

The allegations in the petition of complaint are that the complainant was the registered owner of the property situated at Rasapunja within the jurisdiction of Bishnupur Police Station, district-South 24-Parganas. The allegations against the petitioners are that the complainant was allured to take loan and they by impersonating themselves have compelled the complainant to take such loan thereby foisting EMI of Rs.1,05,775/- per month. It has been stated that the accused persons were requested to hand over vacant possession of the three properties of the complainant, but the accused persons demanded money of Rs.40,00,000/- from the complainant in presence of others which was unfair trade

practice and caused hardship, financial loss, damages, inconvenience, mental pain, agony and trauma. To that effect, the complaint was filed before the jurisdictional court and the learned Magistrate was pleased to take cognizance of the offence and subsequently issued process against the petitioners and others.

I find from the records of the case that the complainant was served with a statutory notice under the provisions of SARFAESI Act and thereafter possession was taken. There was complete suppression of facts on behalf of the complainant for obtaining an order from a criminal court to pin down the present petitioners.

Having considered the allegations made in the complaint and the locus of the present petitioners who were implicated in the instant case, I am of the view that the present case falls within the parameters set out in the case of ***State of Haryana Vs. Bhajan Lal*** reported in ***AIR 1992 SC 604*** wherein it has been settled that when a criminal case has been instituted with an ulterior motive for wreaking vengeance, the said criminal proceedings should be quashed. Having regard to the settled proposition of law and the manner in which the complainant has initiated the process against the officers of the Home Finance Company, I am of the view that further continuance of the instant proceedings would be an abuse of the process of law.

Accordingly, all further proceedings relating to Complaint Case No. AC-5614 of 2019 pending before the learned Chief Judicial Magistrate, Alipore, South 24-Parganas

subsequently transferred to the learned Judicial Magistrate, 7th Court, Alipore, South 24-Parganas are hereby quashed.

The revisional application being CRR 1801 of 2022 is, thus, allowed.

Pending connected application, if any, is consequently disposed of.

All concerned 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.)