

16-05-2023
Subha
Item no.58
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 1454 of 2021

Kallidaikurichi Shankara Ramakrishnan & Ors.
-versus-
Edelweiss Retail Finance Limited

Re : An application under Section 482 of the Code of Criminal Procedure.

Mr. Sabyasachi Chatterjee
Mr. Akashdeep Mukherjee
Mr. Pritam Chatterjee
Mr. Soumyadeep Nag
.....for the petitioners.

The present revisional application has been preferred challenging the complaint case no. being CS(South) 8709 of 2021 pending before the learned Metropolitan Magistrate, 19th Court, Calcutta under Section 25 of the Payment and Settlement Systems Act, 2007.

The subject matter of the case relates to a loan being allotted pursuant to an agreement which was to be diluted by way of equal monthly installment of Rs.55953/-. The electronic fund transfer towards the part discharge of the aforesaid liability could not be executed/cleared on the ground of funds insufficient which was informed to the complainant on 5th January, 2021. A demand notice was sent on 11th January, 2021 calling upon the accused person to pay the sum of Rs.55953/- being the amount so dishonoured or covered in respect of the electronic fund transfer. The notice, according to law, was duly served upon the accused person and in spite of the same, the accused person refused to pay the amount covered/demanded.

After expiry of the statutory period, the petitioners approached the learned Magistrate for taking cognizance in respect of the offences committed.

The issues which have been canvassed on behalf of the petitioners in the present revisional application relate to they being declared as insolvent on their own petition under the provisions of Presidency Town Insolvency Act. To that effect, the Photostat copy of a gazette has been enclosed. The rest of the grounds, which has been canvassed, relates to question of facts.

I have considered the grounds assigned in the revisional application for quashing of the proceedings.

Having considered the same, I am of the opinion that it is the learned trial court who is to assess regarding the factum of loan so taken by the accused person at the relevant period of time. The provisions of the Negotiable Instruments Act is not restricted only to recovery of money but also to the punitive action in respect of default of payment. The grounds so canvassed as such do not form a foundation for interference at the initial stage.

Consequently, the revisional application being CRR 1454 of 2021 is dismissed.

Pending applications, if any, are consequently disposed of.

Petitioners would be at liberty to canvass such point in course of the trial of the case.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]

