

IN THE HIGH COURT AT CALCUTTA**Criminal Revisional Jurisdiction****Present: - Hon'ble Mr. Justice Subhendu Samanta.****C.R.R. No. – 1661 of 2018****With****IA No. CRAN 1 of 2018 (Old No. CRAN/3627/2018)****IN THE MATTER OF****Ranjit Ghosh****Vs.****The State of West Bengal****For the Petitioners : Mr. Ankit Agarwala Adv.,****For the State : Mr. S.G. Mukherjee, Adv.,
Mr. Imran Ali, Adv.,
Mr. Pratick Bose, Adv.****Judgment on : 08.09.2023****Subhendu Samanta, J.**

The instant criminal revisions has been preferred u/s 401 read with Section 482 of the Code of Criminal Procedure for setting aside of an order dated 31st May 2018 passed by the Learned Additional District and Sessions Judge, 2nd Court Hooghly in Criminal Motion No. 66 of 2017 thereby allowing the prayer of the present opposite party No. 2 for commitment.

The brief fact of the case is that the present opposite party no. 2 lodged a written complaint against the present

petition with the O.C. Pandua police station. On such written complaint the Pandua police Station case No. 387 of 2014 dated 8th August 2014 u/s 420/408/120B of IPC was started for allegation therein that the present petitioner had misappropriated a sum of around 15 lakhs from the collection centre of the OP-2 where the money were deposited as premiums by agents to that collection centre. It is the fact that the present petitioner is an agent of LIC who worked under the opposite party no. 2 development officer, of the said corporation. After investigation the police has submitted charge sheet against the present petitioner u/s 420/408/468/471 of the IPC.

The trial of the said case has started before the Learned Judicial Magistrate 3rd court Chinsura the opposite party no. 1 was examined in-chief in part at the time the public prosecutor has submitted an application for alteration of charge u/s 409 of IPC. The written objection was filed by the petitioner. The Learned Magistrate after hearing the parties as allowed the application by passing an order Dated 24th March 2017.

Being aggrieved by the said order of the Magistrate one criminal motion was preferred before the Learned Sessions Judge. The Learned Additional District and Sessions Judge, is heard the criminal motion and passed the impugned order.

Being aggrieved by and dissatisfied with the said order the instant criminal motion has been preferred.

Learned Advocate for the petitioner submits that the impugned order passed by the Learned Additional Sessions Judge suffers illegality and it cannot be sustained. Petitioner is not a public servant. No allegation has levelled against the present petitioner that he has misappropriated in public money. The alteration of charge u/s 409 of IPC is an after-thought Learned magistrate as well as the Learned Sessions Judge has not gone through the provisions of law enumerated u/s 409 IPC and passed the improper order. There are no materials on record to substantiate a case against the petitioner u/s 409 of IPC. So he prayed for the setting aside the impugned order.

Learned Advocate appearing on behalf of the state submits that the investigation of the police goes to show that the petitioner has misappropriated the huge sum of money which is belonged to the public in general. The basic allegation raised against the petitioner is that he has collected money from the public being an agent of LIC but they are not deposited in favour of the public in general to their premiums but misappropriated the sum for his own use. The dealing of public money of the petitioner has well proved thus the charge

must have to be framed u/s 409 IPC. The trial of the case must have to be conducted before a special judge.

On contrary the Learned Advocate for the petitioner submits that the LIC is not Government Company. Section 3 and 4 of the LIC act shows that LIC is an insurance company which is established by the statute but no agent or officer of the LIC can be said to be public servant. Section 617 of the Companies Act 1956 has discussed about the Government Companies the said provision does not enable LIC to be a Government Company thus the present petitioner cannot be said to be an agent of Government Company and the alleged misappropriation of money by the present petitioner cannot be said to be a public money.

Heard the Learned Advocates perused the materials on record it appears that the allegation raised against the present petitioner that he has misappropriated a huge fund which was collected by him as an agent of LIC. The investigation of the police goes to show that the petitioner being an agent has received such money from public by large.

LIC is not a Government Company as defined u/s 617 of Companies Act. The LIC is an insurance Company which is a Central Government Public Undertakings. The Central Government has a shareholding over the LIC which is more

than 95%. The LIC within the meaning of Public Sector Companies of Central Government. The fund of the LIC is no doubt has some shareholding of Central Government. Moreover the fund which was allegedly misappropriated by the petitioner is no doubt money received from the public towards their payments for LIC premiums.

I have perused the impugned award. Learned Additional Sessions Judge is a view that the property of LIC is the property of Central government so according to the provisions of West Bengal Criminal Law amendment Act (Special Court) 1949 the Magistrate has no jurisdiction to try the case but it has to be tried by a Special Court. I have perused Section 4 as well as the schedule of the West Bengal Criminal Law amendment (Special Court Act 1949). It appears to me that the observation of the Learned Additional Sessions Judge is not at all improper. The observation of this court passed in **Shrikanta Patra Vs. State of West Bengal** (CRR 1605 of 2006) is of no use in respect of this case. In the case of **Shrikanta Patra** the property of a Cooperative society was in question before the Learned Coordinate Bench of this court; whereas in this case the fund of LIC (Central Government and Public Undertakings) has a separate identity.

Considering the materials on record and considering the impugned orders passed by the Learned Additional Sessions Judge, I am of the opinion that the impugned order passed by the Learned Additional Sessions Judge, suffers no illegality.

The CRR became groundless and it is liable to be dismissed.

CRR is dismissed.

The Connected CRAN applications if pending are also disposed of.

Any order of stay passed by this court during the pendency of the instant criminal revision is hereby vacated.

Parties to act upon the server copy and urgent certified copy of the judgment be received from the concerned Dept. on usual terms and conditions.

(Subhendu Samanta, J.)