

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 1218 of 2013

Mrs. Simita Chakraborty

Vs

Sri Sushil Kumar Roychowdhury

For the Petitioner : Mr. Kaushik Gupta
Mr. Anirban Tarafder
Ms. Sreyashee Biswas

For the State : Mr. Narayan Prasad Agarwala
Mr. Pratick Bose

Heard on : 17.01.2023

Judgment on : 18.07.2023

Ananya Bandyopadhyay, J.:-

1. The instant criminal revisional application has been filed seeking for quashing of Complaint Case No. AC/1148 of 2012 (TR No. 132/2012) pending before the Learned 8th Judicial Magistrate at Alipore under Sections 468/120B of the Indian Penal Code and all orders passed therein including order dated 26th April, 2012 passed by the Learned Additional Chief Judicial Magistrate (In-Charge), Alipore, South 24 Parganas taking cognizance of the aforesaid case and subsequently issuing process against the petitioner vide order dated 2nd August, 2012.
2. The opposite party had filed a complaint vide C. Case No. AC/1148 of 2012 corresponding to TR 132 of 2012 inter alia stating the opposite party to be

assessee of Kolkata Municipal Corporation in respect of shop room number 3 being premises no. 140/1/203, Netaji Subhas Chandra Bose Road, Police Station- Kolkata, 700040.

3. On the basis of grant of trade licence by the aforesaid Kolkata Municipal Corporation, the opposite party had been paying tax for the shop room as aforesaid to the said Corporation. The opposite party was a registered consumer of C.E.S.C. Ltd. in respect of the shop room number 3 against the consumer no. 08089123005. The complainant entered into an agreement with one Mrinal Chakraborty to transfer the ownership of the aforesaid shop room no. 3 in his favour at a consideration of Rs.3 Lakhs out of which the said Mrinal Chakraborty had paid a sum of Rs. 60,000/- only. The opposite party had issued a notice demanding specific performance of the agreement of sale.
4. Subsequently, in the month of February, 2011 the opposite party no. 2 learnt that the electricity meter bearing his consumer number against the shop room was transferred in the name of the aforesaid Mrinal Chakraborty by the Deputy Manager, C.E.S.C. and the Chief Engineer, C.E.S.C. both of South Regional Office, 6 Mandeville Gardens, Kolkata- 700019, District- South 24 Parganas without the knowledge and consent of the opposite party.
5. In reply to the query of the opposite party as to how the electric meter was transferred in favour of Mrinal Chakraborty, accused person no. 2 i.e. the present petitioner herein replied through a communication dated 21.03.2011 that the aforesaid electric meter was transferred in the name of Mrinal Chakraborty upon compliance of all formalities.

6. The opposite party further contends that in accordance to provision enumerated in regulation 7 of the West Bengal Electricity Regulatory Commission (Standards of Performance of Licensees Relating to Consumer Services) Regulations, 2010, the existing electric meter of a consumer can be transferred in the name of another person who is in the occupation of the said premises if requisite application is filed with no objection of the original consumer. The opposite party denied to have issued any such “no objection” letter for the purpose of transferring the electric meter to the accused person namely, Mrinal Chakraborty, who had fraudulently forged the signature of the complainant with regard to issuance of “no objection” by the opposite party.
7. The present petitioner and the accused person no. 2 connived with accused no. 1 and conspired to transfer the said meter in favour of accused no. 1. The petitioner along with co-accused persons were jointly and severally guilty of commission of the offence of forgery and cheating upon the opposite party.
8. Based on the aforesaid complaint vide order no. 1 dated 26.04.2007 cognizance of the petition of complaint filed under Sections 420/406/120B of the Indian Penal Code was taken by the Court of Learned Additional Chief Judicial Magistrate, Alipore and file was transferred to the 8th Court Judicial Magistrate for disposal. Vide order dated 2.8.2011, the complainant was examined under Section 200 of the Criminal Procedure Code and the process was issued against the accused persons including the petitioner herein under Sections 468/120B of the Indian Penal Code.

9. Heard the submissions of petitioner as well as the complainant. The complainant/opposite party had already expired on 7th May, 2021.

10. Section 468 of the Indian Penal Code states as follows:

“468. Forgery for purpose of cheating.- Whoever commits forgery, intending that the [document or electronic record forged] shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

11. The petitioner in her official capacity received all the documents produced before her and could not have been in a position to adduce or deduce the veracity of the same. The petitioner could not have detected unless and until, the alleged document of “no objection granted” by the opposite party was brought to her notice and knowledge that co-accused persons have forged the same. It is well high impossible for the petitioner to determine the authenticity of the same acting in her official capacity.

12. Averments in the criminal revisional application and annexed documents thereto do not establish a prima facie case against the petitioner to have been involved in an offence committed under Sections 468/120B of the Indian Penal Code and she should not be subjected to rigour of trial and to allow the trial to proceed will result in abuse of process of law.

13. Accordingly, the instant criminal revisional application is allowed.

14. The proceeding being Complaint Case No. AC/1148 of 2012 (TR No. 132/2012) pending before the Learned 8th Judicial Magistrate at Alipore under Section 468/120B of the Indian Penal Code and all orders passed therein including order dated 26th April, 2012 passed by the Learned Additional Chief Judicial Magistrate (In-Charge), Alipore, South 24

Parganas taking cognizance of the aforesaid case and subsequently issuing process against the petitioner vide order dated 2nd August, 2012, is quashed.

15. Accordingly, the criminal revisional application stands disposed of. Connected application if any is also disposed of.
16. There is no order as to cost.
17. Let the copy of this judgment be sent to the Learned Trial Court as well as the police station concerned for necessary information and compliance.
18. All parties shall act on the server copy of this judgment duly downloaded from the official website of this court.

(Ananya Bandyopadhyay, J.)