

08.08.2023
Sl.35
Ct. No.237
KB

CRR 2178 of 2016
with
IA No. CRAN 8 of 2018
(Old No. CRAN 2826 of 2018)
with
IA No. CRAN 9 of 2023

Blackberry Properties Ltd. & Anr.
Versus
Gujarat Composite Limited

Mr. Dipanjan Dutt
Mr. Ajay Gaggar
Mr. Uttiyo Mallick
Mr. Surojit Saha

.... For the petitioners.

Mr. Debrup Bhattacharjee

.... For the opposite party.

This revisional application has been filed with a prayer for quashing of the proceeding in connection with C.R. Case No. 143 of 2016 under Sections 466/120B of the Indian Penal Code pending before the Court of the Learned Judicial Magistrate, 4th Court, Serampore.

A complaint was made before the Learned Judicial Magistrate, 4th Court, Serampore by filing an application under Section 200 of the Code of Criminal Procedure for an offence alleged to have been committed by the petitioner with regard to interpolated copy of the plaint which was served upon the opposite party in compliance with the order of the Court in connection with Title Suit No. 158 of 2015.

Learned Advocate, Mr. Dipanjan Dutt appearing on behalf of the

petitioner submits that allegation of forgery levelled against the petitioner in connection with a proceeding pending before the Learned Civil Judge (Jr. Division), 4th Court, Serampore and necessary steps ought to have been taken by the opposite party by taking course of action under Section 195 of the Code of Criminal Procedure.

Learned Advocate, Mr. Debrup Bhattacharjee, appearing on behalf of the opposite party has submitted that Civil Court where proceeding is pending cannot take cognizance of the offence punishable under Section 466 of the Indian Penal Code and that is why the opposite party filed an application under Section 200 of the Code of Criminal Procedure, pending before the Learned Judicial Magistrate, 4th Court, Serampore.

In course of hearing, Mr. Bhattacharjee also submitted that an application under Section 195 of the Code of Criminal Procedure was already filed before the trial Court, i.e. before the Learned Civil Judge (Junior Division), 4th Court, Serampore, for taking cognizance of the matter but that was refused and matter was challenged in a revisional jurisdiction before the Hon'ble High Court.

On careful scrutiny and after going through the Section 195 Cr.P.C. it comes to my view that the definition clause of forgery under Section 463 of Indian Penal Code is mentioned in 195(1)(b)(ii) of Code of Criminal Procedure and mentioning of Section 463 in the Section 195 clearly shows offence of forgery punishable under Sections 465 and 466 are also coming within the purview of Section 195 of the Code of Criminal Procedure, had it not been so, Section 195 (1)(b)(ii) does not include Section 463 which is a definition clause and for which no

independent proceedings can be initiated.

Codifying Section 463 goes to show that all the forgery taken place in respect of any proceeding before any Court can be taken into account under Section 195 of the Code of Criminal Procedure. Therefore, prohibition of Section 195 stands in the way of taking cognizance of the offence by any other Court in respect of offence mentioned in Section 195 of the Code of Criminal Procedure.

In that view of the matter, the proceeding initiated on a complaint under Section 200 before the learned Judicial Magistrate, 4th Court, Serampore is liable to be quashed.

Accordingly, the Complaint Case being No. 143 of 2016 under Sections 466/120B of the Indian Penal Code stands quashed.

With the aforesaid observation and direction, the revisional application stands disposed of.

All pending applications, if any, also stand disposed of.

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 given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)