

02.03.2023
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SB
Ct. No.236

CRR 2201 of 2010

In the matter of : Anirban Sarkar & Anr.

Mr. Sourav Chatterjee ... for the petitioners

Seeking an order of quashment of proceeding being G.R. No. 1801/09 pending before the learned Additional Chief Judicial Magistrate, Siliguri, Darjeeling corresponding to Siliguri P.S. Case No. 575/2009 dated 05.12.2009 under Sections 420/506/34 of the Indian Penal Code this petition under Section 482 of Cr.P.C. has been filed.

It is adverted by Mr. Chatterjee, learned counsel representing the petitioners, that Iti Chatterjee, who informed the I /C Siliguri Police Station in writing on 04.12.2009 about certain facts, though far from being correct and set the criminal proceeding into motion. She was a partner of M/S. Nandan Production having 10 % share and her son Arijeet Acharya at 5 % share in the business. The partnership was formed to make a film under the style Samajer Antarale and in the midst of the venture Smt. Acharya walked out. Being a partner she had the right to seek to inspect the accounts of the firm. Even she was told to have a look into the accounts maintained by the firm but she preferred the said criminal proceeding into motion. There is nothing to indicate that the accused persons since inception had the intention to entice the informant to part with money and other valuables, therefore, a proceeding under Section 420 of the Indian Penal

Code cannot be maintained. Admittedly, the informant was a partner and being a partner even she does not have the locus standi to sue the other partners in a criminal proceeding for committing breach of trust.

Under such circumstances, I am of the view that this proceeding is attended with mala fide and it would be an abuse of the process of law if the same is allowed to remain in force.

Consequently, I am inclined to quash the proceeding being G.R. No. 1801/09 corresponding to Siliguri P.S. Case No. 575/2009

With this direction, the criminal revision is disposed of with all applications.

Let a copy of the order be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)