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01.03.2023
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C.R.R.2273 of 2021
With
CRAN 1 of 2022

In Re: An application under Section 397/401 read with Section 482 of
the Code of Criminal Procedure, 1973;

Rajendra Tosawad
Versus
The State of West Bengal and another

Mr. Sabyasachi Banerjee,
Ms. Nahid Ahmed.
...for the petitioner.

Mr. Karan Dudhwewala.
...for the opposite party no.2.

Mr. Madhusudan Sur,
Mr. Dipankar Paramanick.
...for the State.

Mr. Sabyasachi Banerjee, learned advocate, appears for
the petitioner and challenges the continuance of Shakespeare
Sarani Police Station Case No.222 of 2020 dated 12.12.2020 under
Sections 406/409/420/120B of the Indian Penal Code.

Learned advocate submits that the complainant has
already initiated proceedings under Section 138 of the Negotiable
Instruments Act and the present case do not express any
criminality. Initially, there were some payments which were
advanced to the complainant. However, because of subsequent
change of circumstances, the accounts of the petitioner were
attached and as such, the cheque could not be honoured or the
dues could not be cleared. It has been emphasised that the facts of
the case fail to make out any offence under Sections 409/406/420

of the Indian Penal Code.

Mr. Dudhwewala, learned advocate appearing for the complainant/opposite party no.2 submits that the petitioner knowing fully well issued cheque having knowledge of the fact that the accounts were closed and there was no possibility of the cheque being encashed.

Mr. Sur, learned advocate appearing for the State produces the case diary and emphasises on the conduct of the present petitioner who knowing fully well the factum of the accounts being attached/closed issued the cheque.

I have considered the submissions of the learned advocate appearing for the petitioner, the State and the complainant/opposite party no.2. On an assessment of the submissions so advanced, I am of the view that the present case is not at a stage when this Court by invoking powers under Section 482 of the Code of Criminal Procedure would be able to reach the conclusion that no offence has been made out. There are several issues involved which relate to questions of fact.

Petitioner would be at liberty to canvass the points agitated in the present revisional application at the stage of consideration of charges under Section 239 of the Code of Criminal Procedure, if so advised. No interference, as such, is called for at this stage.

The revisional application being CRR 2273 of 2021 is disposed of with the aforesaid directions.

Pending application, if any, is consequently 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 supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)