

M/L52
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C.R.R.2692 of 2021

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973;

Tausif Zaman
Versus
Md. Ansar and another

Ms. Ankita Bose.
...for the petitioner.

Mr. Debabrata Chatterjee,
Mr. Santanu Chatterjee.
...for the State.

The petitioner has challenged the present proceedings being Jorasanko Police Station Case No.171 of 2016 dated 14.03.2016 under Sections 120B/420 of the Indian Penal Code (G.R. Case No.578 of 2016) pending before the learned Metropolitan Magistrate, 15th Court, Calcutta.

The main thrust of contention of the petitioner is that he has refunded whole of the amount and in spite of the same, charge-sheet has been submitted before the jurisdictional court.

Ms. Bose, learned advocate appearing for the petitioner submits that in fact in course of the proceedings the de facto complainant also informed the police authorities that there has been a settlement and they do not intend to pursue the case. Additionally, she has submitted that the case was registered for recovery of money and the same having been paid, further continuance of the proceedings are unwarranted in the facts and circumstances of the instant case.

Mr. Santanu Chatterjee, learned advocate, appears on behalf of the State and produces the case diary.

Efforts have been taken by the police for informing the opposite party no.1/de facto complainant, both at the address available within the jurisdiction of Jorasanko Police Station as well as Police Station Sadar, District-Darbhanga, Bihar, but no report could be filed and the police authorities have not been able to trace the de facto complainant of the case in spite of their best efforts.

I have perused the case diary along with the report under Section 173 of the Code of Criminal Procedure. The report under Section 173 of the Code of Criminal Procedure cites three witnesses which include the complainant, C.S.W. 2, Sk. Sajid and the Investigating Officer of the case. The contents of the statements under Section 161 of the Code of Criminal Procedure reflect that out of a sum of Rs.55,000/- which was parted with by the complainant, a sum of Rs.45,000/- along with the documents were returned.

Having regard to the fact that the contention advanced by the present petitioner regarding repayment cannot be ruled out, I am of the opinion that further proceedings arising out of Jorasanko Police Station Case No.171 of 2016 dated 14.03.2016 (wherein charge-sheet no.305 of 2016 dated 20.11.2016) was submitted before the jurisdictional court is unwarranted and, as such, all further proceedings before the learned Metropolitan Magistrate, 15th Court, Calcutta relating to G.R. Case No.578 of 2016 is quashed.

Thus, CRR 2692 of 2021 is allowed.

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.)