

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 3559 of 2011

**Manu Pal & Anr.
-Vs-
The State**

For the Petitioners : Mr. Sukumar Ghosh

For the State : Mr. Joydeep Roy
Ms. Sujata Das

Heard on : 19.09.2023

Judgment on : 14.12.2023

Ananya Bandyopadhyay, J.:-

1. The instant criminal revisional application is filed by the petitioners for quashing of the proceeding being G.R. Case No. 882/2011 arising out of K.G.P. (T) P.S. Case No. 103/2011 dated 13.04.2011 and the order dated 29.08.2011 passed by the Learned Judicial Magistrate, 1st Class, 3rd Court, Paschim Midnapur under Sections 420/406 of the Indian Penal Code pending before the Learned Judicial Magistrate, 1st Class, 3rd Court, Paschim Midnapur.
2. On 13.04.2011 at 19.15 hrs., one Ajit Kumar Jana went to the Kharagpur Police Station and lodged a written complaint against petitioners. The

accused persons met with the complainant stated that he paid Rs.15,000/- instead of Rs.20,000/-, the petitioners will provide him a service. Accordingly, the complainant paid Rs.15,000/- in cash. After few days on being asked the accused persons declined to interact. On 13.04.2011 at 11.30 a.m. the accused persons called one Sanjoy Patra and one Panchanan Maji and took Rs.5,500/- from them for providing service but they were caught red-handed by the local people.

3. The petitioners submitted that on the basis of the aforesaid complaint the police authority started a police case being G.R. Case No. 882/2011 arising out of K.G.P.(T) P.S. Case No. 103/2011 dated 13th April, 2011 under Sections 420/406 of the Indian Penal Code.
4. The petitioners stated that in connection with the said case both the petitioners were arrested by the police authority on 14th April, 2011 and produce before the Learned Chief Judicial Magistrate, Paschim Midnapur on that day. The bail petition of the petitioners were rejected.
5. On 28th April, 2011 the petitioners were again produced before the Learned Chief Judicial Magistrate, Paschim Midnapur when the bail petition of the petitioners were filed and the same was allowed.
6. The petitioners submitted that nominal amount and the allegation against the petitioners either does not come under the purview of Sections 420/406 of the Indian Penal Code.

7. The petitioners submitted that the police authority had submitted the charge-sheet in connection with the K.G.P.(T) P.S. Case No. 103/2011 to face the trial.
8. The Learned Advocate for the petitioners submitted that:-
 - i. The Learned Magistrate failed to appreciate that there was no prima facie case that had been made out to constitute a criminal offence and as such the instant revision application should be allowed.
9. The Learned Advocate for the State submitted, at a nascent stage involving serious allegations the trial should be allowed to be continued.
10. The two accused, Sanjit Kumar Ghosh alias Sanit and Manu Paul alias being Manmatha came in contact with the complainant and they told him that they would provide him with a job of peon if he gave them Rs. 20,000/-. The complainant gave them Rs. 15,000/- at Inda, Kharagpur. However, after giving the two accused persons the money, whenever the complainant tried to ask them about the job, the accused would evade the question. Thus, the complainant lodged a complaint at the Keshpur Police Station on 13.04.2011 at 11:30 am.
11. On 13.04.2011, the accused people called one Sanjay Patra and Panchanan Majhi at Inda Bus stop near Kali Mandir and stated they would get security job and gave cash Rs. 5,500/- and local people caught them red handed. Consequently the above noted case was instituted. As per endorsement of I/C, Keshpur Police Station, the ASI of the Keshpur Police Station took up the investigation. During the investigation, the place of occurrence was

visited, rough sketch map was prepared with index and the witnesses were examined and their statements were recorded under Section 161 of CrPC. The ASI also examined the two accused persons and searched their person and received Rs. 5,500/- from their possession. He also seized Rs 5,500 from the accused persons in presence of the witnesses and prepared a seizure list and took the signature of the accused persons and the witnesses.

12. The Hon'ble Supreme Court observed the following in the case of ***State of Haryana and Others Vs. Bhajanlal and Others***¹:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their

¹ 1992 Supp (1) Supreme Court Cases 335

entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

13. The elements constituting the offence under Section 420 of the Indian Penal Code inclusive of initial inducement and deception are palpably inferred from the materials on record which require to be discerned through trial.

14. In view of the above discussions, the instant criminal revisional application being CRR 3559 of 2011 is dismissed.

15. There is no order as to cost.

16. Let the copy of this judgment be sent to the Learned Trial Court as well the police station concerned for necessary information and compliance.

17. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)