

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

C.R.R. 4006 of 2022

***Neville Dadi Master @ Neville Master
Vs.
The State of West Bengal & Anr.***

**For the petitioner : Mr. Sandipan Ganguly, Sr. Adv.
Mr. L.Vishal Kumar, Adv.
Mr. Dipanjan Dutt, Adv.**

Heard on : 02.01.2023

Judgment On : 02.01.2023.

Bibek Chaudhuri, J.

On the basis of a written complaint submitted by one Mr. Abhranil Neogi, erstwhile Civil Judge (Junior Division), 1st Court at Sealdah on 9th August, 2017, Entally Police Station Case No.281 dated 9th August, 2017 under Sections 419/353/447/120B of the Indian Penal Code read with Section 12 of the Prevention of Corruption Act was registered against the petitioner. On completion of investigation, police submitted charge-sheet against the petitioner under the above-mentioned penal provisions.

Since the offence under Section 12 of the Prevention of Corruption Act is exclusively triable by the learned Special Judge, the case was committed to the learned Special Judge, 1st Special Court at Alipore.

The petitioner preferred an application praying for discharging him. The learned Judge upon hearing the learned Advocate for the parties and considering the materials on record held that there was no ground for framing charge against the petitioner under Sections 120B/353 of the Indian Penal code and Section 12 of the Prevention of Corruption Act. The learned Judge further held that there is prima facie material against the petitioner to frame charge under Sections 447/419 of the Indian Penal Code. Accordingly, the learned Special Judge transmitted the case record to the Court of the learned Additional Chief Judicial Magistrate at Sealdah to proceed with the case against the petitioner for offence punishable under Sections 447/419 of the Indian Penal code.

The petitioner has challenged the legality, validity and propriety of the said order dated 19th September, 2022 passed in Criminal Case No.1 of 2021 corresponding to G.R. Case No. 2199 of 2017.

It is submitted by Mr. Sandipan Ganguly, learned Senior Counsel on behalf of the petitioner that the petitioner is a Law Graduate and he is enrolled under the Bar Council of Goa. However, the petitioner is not the practising lawyer. He works as Manager, in a private company. The learned Civil Judge (Junior Division), 1st Court at Sealdah lodged a

report on 9th August, 2017 stating, *inter alia*, that when he was working in his official chamber at around 1:20 p.m., the petitioner entered into his chamber and asked if he could talk with respect to some case or not, the learned Judge asked him as to why he entered into his chamber without any permission. At this the petitioner stated that he wanted to know about some order passed in some case on the previous day. The learned Judge immediately asked him to leave his chamber and also told him that he had nothing to know about any case, he should enquire in the office of the concerned Court. Subsequently the Sherestedar attached to his Court came to his chamber with the said person and informed the learned Judge that the said person was taking photographs through his mobile phone for some orders directly from a case record. The Officer immediately seized the mobile phone and handed over the same to the police officer with the complaint.

At the outset it is submitted by the learned Advocate for the petitioner that the petitioner did not act properly while entering into the official chamber of the Presiding Officer in order to take information about a case. It was also improper to take photographs of Court's record through his mobile phone. However, for such act, the petitioner might be dealt with differently. The act done by the petitioner if admitted does not constitute any offence under Sections 419 or 447 of the Indian Penal Code.

It is submitted by the learned Senior Counsel on behalf of the petitioner that 419 is a penal provision for cheating by personation. There is no allegation to the effect that the petitioner pretended to be some other persons before the complainant. Moreover, to attract Section 419 of the Indian Penal Code, there must be ingredients of cheating defined in Section 415 of the Indian Penal Code. There is no allegation that the accused deceived the Presiding Officer of the Court, fraudulently or dishonestly induced him to deliver any property or to do something which might likely to cause damage or harm to that person, in body, mind, reputation or property.

It is further submitted by him that criminal trespassers under Section 441 of the Indian Penal Code envisages an offence of wrongful entry into or upon any property in the possession of another with intent to commit offence or to intimidate, insult or annoy any person in possession of such property. There is absolutely no allegation in the FIR as well as the documents supplied to the petitioner in compliance of Section 207 of the Code of Criminal Procedure and accordingly, criminal proceeding pending against the petitioner is liable to be quashed.

From the submissions made by the learned Advocate for the petitioner, it is clear that the petitioner works as a Manager, in a Company. He is a Law Graduate. He might be enrolled with a Bar Council of a particular State but he does not practice. A person working for gain in a private company represented himself before a Judge as an

Advocate. He wanted to know about some order passed in a case by the said Judge. The learned Judge perceived that such unlawful entry by the petitioner was likely to cause damage or harm to his reputation. This perception prima facie attracts the offence of cheating by personification.

On the same logic, the petitioner's entry in the official chamber of the Civil Judge (Junior Division), 1st Court at Serampore on 9th August, 2017 amounts to criminal trespass because it caused annoyance of the learned Judge.

It is needless to say that at the time of consideration of charge, the Court shall consider the broad probabilities and come to a findings as to whether a prima facie case to proceed with the trial has been established or not.

I have carefully perused the impugned order dated 19th September, 2022.

I do not find any reason to interfere.

Accordingly, the instant revision is dismissed summarily.

(Bibek Chaudhuri, J.)

**Mithun De/
A.R. (Ct).
SI No.18.
M/L.**