

CRR 4099 of 2009

In the matter of : Sanjiv Kumar Dalmia.

Mr. Ayan Bhattacharyya
Mr. R. K. Khanna
Mr. Prattoy Khan
Mr. Aman Khemka

.... For the petitioner

Mr. Bidyut Kumar Roy
Ms. Sima Biswas

..... for the State

This revisional application challenges the proceeding being G.R. case No. 2324 of 2008 under Section 420 of the I.P.C. arising out of Bowbazar Police Station case No. 318 dated 24th August, 2008.

Briefly stated the opposite party No. 1 Sajjan Kumar Kheria informed the Officer-in-charge of Hare Street Police Station in writing that the petitioner Sanjiv Kumar Dalmia approached him for an accommodation loan to the tune of Rs.47 Lakhs and by four installments the money was paid to the petitioner. The petitioner issued two cheques on 11th February, 2008 for Rs.37 Lakhs and for Rs.10 Lakhs as guarantee. The informant upon enquiry came to know from the bank that the petitioner had no fund in his account. He was not attending the office and staff of Sanjiv Kumar Dalmia informed the opposite party No. 1 Sajjan Kumar Kheria that Mr. Dalmia had moved to Jharkhand Steel Plant. The information disclosed an offence cognizable in

nature and Bowbazar P.S. case No. 318 of 208 was registered on 24th August, 2008. After investigation Police submitted charge sheet.

The accused person Sanjiv Kumar Dalmia has surrendered to the jurisdiction of learned Trial Court and has been facing trial pleading his innocence. Police cited three persons as charge sheet witnesses. The de facto complainant Sajjan Kumar Kheria has adduced evidence as P.W. 1 before the learned Trial Court. Souvik Ghosh C.S. No. 2 has adduced evidence as P.W. 2. Now, the last witness left to be examined is the I.O. of the case.

While adducing evidence as P.W. 1 the de facto complainant stated that he gave Rs.47 Lakhs to the accused person by 4 installments who assured return of the said money with interest. The money was taken for the purpose of business. The accused person issued two post dated cheques drawn on Indian Overseas Bank for a sum of Rs.10,00,000/- and Rs.37,00,000/- respectively. He was supposed to pay interest @ 18%. The cheques were deposited with a bank but dishonoured for insufficient fund. Thereafter accused person issued cheques but those cheques were also not honoured by the bank. During cross-examination he stated he paid a sum of Rs.47,00,000/- to Sanjiv Kumar Dalmia by cash but he did not hand over the books of account to the police.

P.W. 2 Souvik Ghosh was examined in the light of Section 154 of the Evidence Act by the prosecution as he

expressed his ignorance about the alleged transaction. From the certified copy of the order sheet I find that on 15th March, 2023 P.W. 2 was examined and discharged. Now only witness left to be examined is the Investigating Officer of this case who cannot be said to have any direct knowledge about the transaction. The written information admitted as Exhibit – 1 in course of trial indicates that the de facto complainant decided to extend the financial help to the accused person as once the accused person had helped him out. There is no document to substantiate the claim of the de facto complainant regarding his lending money to the accused. As P.W. 1 he claimed to have given money by cash. But no document including the books of account was seized by police to substantiate such claim. Therefore there is every reason to hold that the de facto complainant has failed to prove the assertion made by him towards extending financial help to the accused person to the tune of Rs.47,00,000/-. Even he could not say specifically on which dates the money was paid by him. There is no evidence to indicate that since inception the accused person had the intention to dupe the petitioner. At best it could be a civil dispute and there is nothing to saddle the accused person with criminal liability within the meaning of Section 420 of the I.P.C. However taking into consideration the facts that the witnesses other than Investigating Officer have been examined, and witness action has come almost to an end, I am not inclined to quash the proceeding at this stage.

Since the matter is pending for 15 years, learned Trial Court is requested to dispose of the case by 15th June, 2023 without granting adjournment to either of the parties in the light of the discussion made herein above.

Thus the criminal revision is disposed of.

Copy of the order be sent down to the learned Court below for information and necessary action.

(Siddhartha Roy Chowdhury, J.)