

16.03.2023  
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SB  
Ct. No.236

CRR 4475 of 2008

In the matter of : Tata Motors Finance Ltd. & Anr.

Mr. Arnirban Dutta  
Ms. Priyanka Mukherjee ... for the O.P. No. 2

Mr. N. P. Agarwala  
Mr. Pratick Bose ... for the State

No one is appearing on behalf of the petitioners.

Mr. Dutta, learned counsel appearing on behalf of the opposite party no. 2 files affidavit of service that demonstrates compliance of the direction given to the opposite party no. 2 on the 2<sup>nd</sup> March, 2023. The affidavit of service is taken on record.

The matter is pending for nearly fifteen years.

Under such circumstances, I propose to dispose of the revisional application on merit based on materials available with the record with the assistance of Mr. Dutta.

This petition under consideration challenges the proceeding of C.R. Case No. 435 of 2007 pending before the learned Judicial Magistrate, 3<sup>rd</sup> Court, Berhampore. The opposite party no. 2 as complainant took out an application stating inter alia that he purchased one motor vehicle from Tata Motors Finance Ltd. on hire purchase claim and paid all the instalments he was supposed to pay to acquire the ownership of the vehicle. No Objection Certificate was also issued in favour of him by the financier. On 18.8.2006 Sri Gobinda Chandra Nath received an envelope under registered post and came to know about the proceeding initiated

against the accused nos. 1 and 2 as well as against Mr. Nath under Section 9 of the Arbitration and Conciliation Act, 1996 and learned Judge, 7<sup>th</sup> Bench of City Civil Court, Calcutta was pleased to issue a notice calling upon him to show-cause as to why the prayer so made before the Court should not be allowed. He came to the Court concerned and after going through the report, to his utter surprise, he found that one loan agreement submitted before the learned Judge, 7<sup>th</sup> Bench of City Civil Court, Calcutta contained his name and was purportedly signed by one Gobinda Chandra Nath in English. It is contended that he does not know how to write English and he executed all such documents in vernacular language, including the loan agreement entered into by and between the Tata Motors Finance Limited and Mr. Nath.

Learned Judicial Magistrate after invoking the provision of Section 200 of Cr.P.C. directed the jurisdictional police station to hold an inquiry under Section 202 of Cr.P.C. and to submit a report. The said direction was complied with and S.I. Chandan Kumar Das of Berhampore Police Station submitted a report to that effect before the learned Judicial Magistrate on 09.9.2007. The accused person surrendered to the jurisdiction of Learned Judicial Magistrate but soon thereafter preferred this revisional application for quashment of the proceeding.

Mr. Dutta takes me through the documents appended to the affidavit-in-opposition filed by the opposite party no. 2 and from the loan agreement I find that the hirer executed said document by putting his signature in Bengali. Even the photocopy of Aadhar Card indicates the gentlemen signed in Bengali. When these

documents are considered in contradiction of photocopy of the loan agreement annexed to the petition by the petitioner, prima facie, it supports contention of the complainant before the learned Judicial Magistrate in Complaint Case No. C.R. 435 of 2007.

This apparent discrepancy in the manner of execution of document prima facie suggests that the opposite party no. 2 has every reason to approach the Court of Law which cannot be considered to be an abuse of the process of law.

Therefore, in my view there is no reason to invoke the provision of Section 482 of the Cr.P.C. to quash the proceeding being C.R. 435 of 2007 pending before the learned Judicial Magistrate, 3<sup>rd</sup> Court, Berhampore to secure ends of justice.

The revision merits no consideration and is accordingly dismissed.

With this observation the revisional application is disposed of along with application if any.

While appreciating the burden of huge pendency to which the learned Trial Court is reeling under, I request the learned Trial Court to take all possible measures to secure the right of the litigants to have expeditious disposal, particularly when the complainant appears to be a senior citizen.

Let a copy of the order be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)