

CRR 4192 of 2012

In the matter of : ARK Financial Services & Ors.

Ms. Kavita Saraf ... for the petitioners

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

Heard the learned counsel appearing on behalf of the petitioners.

This petition under consideration challenges the proceeding being C. Case No. 7798 of 2012 arising out of Alipore P.S. Case No. 375 of 2012 dated 30.11.2012 under Sections 406/420/120B of the Indian Penal Code including the order dated 30.11.2012 passed by the learned Chief Judicial Magistrate, Alipore, South 24 Parganas.

Briefly stated, Chirag Trading Company Limited filed a petition of complaint before the learned Chief Judicial Magistrate, Alipore, 24 Parganas (South) alleging *inter alia* that the accused number 1 being the partnership firm deals in share business and is also a member of National Stock Exchange Limited. Accused Nos. 2 & 3 are the partners and accused no. 4 is the agent of accused no. 1. The complainant paid a sum of Rs.1,20,000,00/- in favour of the accused no. 1. The accused persons issued seven cheques. In order to earn confidence of the complainant company the accused persons remitted back a sum of Rs. 2.75 crores with the assurance that detail accounting shall be done shortly and shares shall be delivered to the complainant but ultimately they refused to honour

such undertaking sometime in or about September 2012. The complainant reached the office of the accused persons but he was threatened with dire consequences. Thereafter, on 12.10.2012 the complainant informed the Alipore P.S. about the incident but no step was taken by the police. Learned jurisdictional Magistrate after considering the petition of complaint forwarded the same under Section 156(3) of the Cr.P.C. and Alipore P.S. Case No. 375 dated 04.12.2012 was registered.

Learned counsel appearing on behalf of the petitioners submits that the petition of complaint is vexatious, frivolous and the accused persons are being harassed by the complainant who has taken out several complaints of like nature. It is further submitted that after completion of investigation police submitted charge sheet and 20th July is fixed for consideration of charge by the accused persons.

According to Ms. Saraf, learned counsel representing the petitioners, complainant though furnished a list of cheques allegedly issued by him in favour of the accused company but not a single document was produced before the learned Court to substantiate such claim.

Since after investigation police submitted charge sheet and date is fixed for consideration of charge by the learned Trial Court at this stage, I do not find any reason to invoke the provision of Section 482 of Cr.P.C. to quash the proceeding pending before the learned Trial Court.

However liberty is given to the petitioners to agitate all points at the time of framing of charge which will be duly considered by the learned Trial Court.

With the above observation, the revisional application is disposed of.

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

(Siddhartha Roy Chowdhury, J.)