

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

Appellate Side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 1644 of 2020

Monoranjan Roy

Vs.

The State of West Bengal & Anr.

For the petitioner	: Mr. Milon Mukherjee, Mr. Biswajit Manna, Ms. Kabita Mukherjee, Mr. Manas Dasgupta.
For the State	: Mr. Ranabir Roychowdhury, Mr. Sandip Chakraborty.
For the Opposite Party no.2/RPFC	: Mr. Shiv Chandra Prosad.
Hearing concluded on	: 03.08.2023
Judgment on	: 31.08.2023

Shampa Dutt (Paul), J.:

1. The present revision has been preferred praying for quashing of proceeding being Gariahat/EB Case No.80 of 2018, dated 27th March, 2018 under Sections 406/409 of the Indian Penal Code corresponding to EBGR Case No.24 of 2018 under Sections 406/409 of the Indian Penal Code.
2. The petitioner's case is that the instant criminal case being Gariahat/EB Case No.80 of 2018 had been initiated on the basis of a petition of complaint lodged by the opposite party no.2 herein on 26th

March, 2018 before the Deputy Commissioner of Police, Enforcement Branch, 112, Ripon Street, Kolkata-700016, inter alia, alleging commission of offence against the petitioner punishable under Sections 406/409 of the Indian Penal Code.

3. The allegations leveled in the said complaint are inter alia, to the following effect:-

(a) The defacto complainant, being the Enforcement Officer, namely, Mr. Mithun Barua, allegedly inspected the establishment namely Suneha Education Society (Lycee School) at 10/1, Hindusthan Road, Kolkata-700 029, on 19th February, 2018 and 26th February, 2018. During such inspection, it revealed that the said school was run and controlled by Suneha Education Society (hereinafter referred to as the 'said society'), who has defaulted in making payment of a sum of Rs.5,58,090/- towards the employees' share of Provident Fund Contribution for the period from August, 2016 to December, 2016 and such amount had not been deposited with the Provident Fund Organization and thereby violated the provisions of Section 6 of the EPF & MP Act, 1952 and committed an offence of criminal breach of trust under Section 406/409 of the Indian Penal Code.

(b) It was also alleged that the present petitioner was the person responsible for the said society.

(c) For the said violation, the said Enforcement Officer lodged a FIR with the Deputy Commissioner of Police, Enforcement Branch on 26th March, 2018.

(d) Based on the said complaint, the instant criminal case being Gariahat/EB Case No.80 of 2018 was initiated.

4. It is stated by the petitioner that during his tenure in the said society, the petitioner cleared all the dues and liabilities till 2nd November, 2016. At the time of change of office bearer of the said society, the incoming Chairman gave an express undertaking that he shall take over all liabilities/responsibilities which includes the past, present and future liabilities of the said society.

5. The petitioner states that before filing of the instant criminal case, the Provident Fund Organization did not issue any show cause as was mandatory before issuance of the warrant of arrest. In the instant case, the said authority did not issue any show cause to the petitioner herein and did not give any opportunity to the petitioner in respect of the claim of the Provident Fund authority. The instant complaint was lodged on 26th March, 2018 when admittedly the petitioner was not at the helm of affairs of the said society. The petitioner herein resigned from the said society long back and severed all his connection with the said society and the Chairman who succeeded him was appointed with the express condition that the said officer bearer shall take all responsibilities including past, present and future liabilities of the said society.

6. It is submitted that the Provident Fund Organization was aware of the said factum of resignation of the petitioner from the said society as the

factum of resignation of the petitioner herein was intimated to the said organization. It is also stated that there have been several other collateral proceedings between the petitioner and the said organization in respect of the self same school.

7. Being aggrieved by such high handed action of the said organization, the petitioner moved a writ petition before this Hon'ble Court being W.P. No.1576(W) of 2017 (*Shri Monoranjan Roy -vs.- Union of India & Ors.*). After hearing the parties, the Court was pleased to pass an order on 25th January, 2017, to the following effect:-

“..... that apart, question of association of the petitioner with the concerned school during the relevant period is required to be examined. Till such exercise is complete, the authority shall not take any coercive measure against the petitioner for a period of six weeks or until further orders whichever is earlier.....”

8. The said writ petition again came up for further hearing on 7th September, 2017 when the said interim order granted earlier was extended till disposal of the said writ petition.

9. The said writ petition is still pending before this Hon'ble Court. The parties have exchanged affidavits in the said writ petition.

10. By suppressing the fact of pendency of the aforesaid writ petition being W.P. No.1576 (W) of 2017) (hereinafter referred to as the said Writ Petition) and the interim order passed therein, whereunder the said organization was debarred from taking any coercive action against the petitioner, the defacto complainant **lodged the instant criminal case on 26th March, 2018.** In view of the said interim order passed by this Hon'ble Court, the opposite party no.2, could not have initiated the instant criminal case.

11. That the defacto complainant was aware of the aforesaid order passed in the said writ petition thereby restraining the organization from proceeding against the petitioner in any coercive manner. However, the opposite party no.2 filed the instant criminal case and thereby subjected the petitioner to harassment.

12. That at the time of lodging of the FIR, the petitioner was not at the helm of affairs of the said society and therefore, the instant criminal case could not have been initiated against the present petitioner alleging him to be the person responsible for the affairs of the said society.

13. The petitioner states that whether the petitioner was associated with the school at the relevant point of time or not, is an issue pending before this Hon'ble Court in the writ petition being W.P No.1576 (W) of 2017 and, therefore, without deciding the said issue between the same parties (petitioner and the Provident Fund Organization), the opposite party no.2 herein could not have lodged the FIR against the present petitioner.

14. **Mr. Milon Mukherjee, learned senior counsel appearing for the petitioner** has submitted that the Provident Fund Organization was well aware of the fact that the petitioner had ceased to be the Chairman of the said society long back and the parties are litigating on the same issue before this Hon'ble Court in the pending Writ Petition being W.P. No.1576 (W) of 2017 and therefore, the opposite party no.2 could not have initiated the instant criminal case and continuation of the entire criminal case is a gross abuse of the process of law and should be quashed.

15. Mr. Mukherjee has further submitted that it is incumbent upon the opposite party no.2 to inform the Learned Trial Court about passing of the

interim order restraining the Provident Fund Organization from initiating any coercive action against the petitioner and by not doing so, the prosecution has acted malafide and arbitrarily.

16. That the opposite parties are guilty of suppressing material facts before the learned trial court and the impugned proceeding is a gross abuse of the process of law.

17. That the allegations made in the said FIR 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 petitioner herein and hence the impugned proceeding is liable to be quashed for the ends of justice.

18. Thus it is expedient in the interest of justice, to uphold the dignity of law that the impugned proceeding is quashed and set aside being bad in law.

19. **Supplementary affidavit** has been filed by the petitioner stating that there has been a change of ownership of the said Suneha Education Society with effect from 4th February, 2016. Thus the petitioner cannot be equated with the said establishment namely Suneha Education Society. The petitioner is the erstwhile Chairman of the said society. Therefore, under no imagination the petitioner could be entangled in the instant matter pertaining to the said society when admittedly the petitioner had resigned from the Chairmanship of the said society on 2nd November, 2016.

20. The fact of resignation has been accepted by the Provident Fund authorities also which can be evident from the communication dated 23rd November, 2022 wherein the Provident Fund authorities have accepted and

served a notice to the new Chairman of the said society namely Shri Dipankar Bose.

21. In the Memorandum of Understanding of the society it has been clearly stated that:-

“.... erstwhile Management was responsible for liquidating of all statutory and financial and managerial dues till the handing over date of the change of ownership of the said society and the present management is liable for clearance of the said dues from the date of taking over of charges.”

22. A letter dated 26th May, 2016 purported to be an order under Section 7Q has been passed by one Mr. P. K. Sinha, Assistant Provident Fund Commissioner (Damage). In the said notice, penal interest under Section 7Q has been demanded from Suneha Education Society. In the said notice dated 26th May, 2016, a reference has been made to an order passed under Section 7Q. It is curious to note that the order under Section 7Q was passed only on 31st May, 2016. Therefore, the demand letter dated 26th May, 2016 could not have been issued on 26th May, 2016 when the order itself was passed on 31st May, 2016. It casts a shadow on the entire process of demanding Provident Fund by the opposite parties.

23. **Mr. Shiv Chandra Prosad, learned counsel has appeared for the Enforcement Officer, Employees Provident Fund Organization** and has submitted that the petitioner is a habitual defaulter and the defalcation in this case relates to the provident fund contribution of the employees, who have been seriously prejudiced. It is further submitted that the offence being serious the petitioner should face trial in the present case.

24. **On hearing both sides and considering the materials on record, it appears that:-**

I. The FIR in this case was registered on 27.03.2018 under Sections 406/409 IPC for defalcation of the employees Provident Fund dues for the period from August, 2016 to November, 2016 (written complaint shows the period from August, 2016 to December, 2016) of Rs.5,58,090/- against the petitioner being the proprietor of Suneha Education Society (Lyee School).

II. **The written complaint is a complaint as follows:-**

“I, Mithun Barua, Enforcement Officer therefore request you to register FIR under Section 154 Cr.P.C. for prosecution under Section 406/409 IPC against the following:-

1. **M/s. Suneha Education Society (Lycee),**
10/1, Hindustan Road, Kolkata-700 029.
2. **Shri Monoranjan Roy,** C/o. Mr. Kalachand Roy, R/o 2/233/B/3, Sree Colony, Rajpur, PO-Regent Estate, P.S. Netaji Nagar, Kolkata-700 092.”

III. Annexure P-2, is the letter of consent by one Dipankar Bose (appointed as Chairman by the Board of Trustees of the society on 2.11.2016) stating that:-

“ I hereby confirm my consent to take up as Chairman of the Society with effect from 01.11.2016 and I am ready to take the responsibilities of all past, present and future liabilities of the Society.”

IV. The petitioner resigned from the Chairmanship on 02.11.2016.

V. WPA No.1576 of 2017 was filed by the petitioner relating to the dues for the period 04/2013 to 05/2015 which the petitioner who joined on 04.02.2016, cleared by making payment.

VI. Staff/teachers of the School vide a letter dated 18.04.2016 to the Provident Fund Commissioner prayed on behalf of the School and the petitioner, to pay of the dues in installments.

VII. The recovery officer was informed on 29.12.2016 about the change of Chairman and Sri Dipankar Bose taking over as Chairman on 02.11.2016 and the petitioner resigning on the same day.

VIII. Memo No.RRC/28(23)06/BIFR dated 11.02.2014 of the EPFO, Government of India relates to instructions on grant of installment facility to establishments for liquidating the arrears-regarding provident fund dues.

IX. On 23.12.2016, a show cause notice was issued by the recovery officer.

X. **As per direction of this court Rs.7,50,000/- has been deposited by the petitioner with the EPFO, (without prejudice).**

25. **Mr. Mukherjee**, has relied upon the following judgments:-

- i) **Rajiv Jajodia & Anr. v. The State of West Bengal & Anr.**, in CRR No.806 of 2014.
- ii) **Anil Kumar Nahata v. State of West Bengal & Anr.**, in CRR 425 of 2018.

26. Para 19 and 21 of the judgment of the Supreme Court in **Shiv Kumar Jatia v. State of NCT of Delhi, reported in (2019) 17 SCC 193** has been **relied upon by the opposite party no. 2.**

“19. The liability of the Directors/the controlling authorities of company, in a corporate criminal liability is elaborately considered by this Court in Sunil Bharti Mittal [Sunil Bharti Mittal v. CBI, (2015) 4 SCC 609 : (2015) 2 SCC (Cri) 687] . In the aforesaid case, while considering the circumstances when Director/person in charge of the affairs of the company can also be prosecuted, when the company is an accused person, this Court has held, a corporate entity is an artificial person which acts through its officers, Directors, Managing Director, Chairman, etc. If such a company commits an offence involving mens rea, it would normally be the intent and action of that individual who would act on behalf of the company. At the same time it is observed that it is the cardinal principle of criminal jurisprudence that there is no vicarious liability unless the statute specifically provides for. It is further held by this Court, an individual who has perpetrated the commission of an offence on behalf of the company can be made an accused, along with the company, if there is sufficient evidence of his active role coupled with criminal intent. Further it is also held that an individual can be implicated in those cases where statutory regime itself attracts the doctrine of vicarious liability, by specifically incorporating such a provision.

21. By applying the ratio laid down by this Court in Sunil Bharti Mittal [Sunil Bharti Mittal v. CBI, (2015) 4 SCC 609 : (2015) 2 SCC (Cri) 687] it is clear that an individual either as a Director or a Managing Director or Chairman of the company can be made an accused, along with the company, only if there is sufficient material to prove his active role coupled with the criminal intent. Further the criminal intent alleged must have direct nexus with the accused. Further in Maksud Saiyed v. State of Gujarat [Maksud Saiyed v. State of Gujarat, (2008) 5 SCC 668 : (2008) 2 SCC (Cri) 692] this Court has examined the vicarious liability of Directors for the charges levelled against the Company. In the aforesaid judgment this Court has held that, the Penal Code does not contain any provision for attaching vicarious liability on the part of the Managing Director or the Directors of the Company, when the accused is a company. It is held that vicarious liability

of the Managing Director and Director would arise provided any provision exists in that behalf in the statute. It is further held that statutes indisputably must provide fixing such vicarious liability. It is also held that, even for the said purpose, it is obligatory on the part of the complainant to make requisite allegations which would attract the provisions constituting vicarious liability."

27. In **S.K. Agarwalla & Ors, Vs ESI Corporation & Anr., 1985**

(1) CHN, 113, the Calcutta High Court held:-

"6. From the above explanation it would be abundantly clear that the employer, who deducts the employees' contribution shall be deemed to have been entrusted with the amount of contribution so deducted and he shall be deemed to have dishonestly misappropriated the said amount. In other words, the deeming provision applies to an 'employer'. 'Employer' has not been defined in the Indian Penal Code, and under the Act only 'immediate employer' and 'principal employer' have been defined, though there are some provisions like S 85 E and 85 C of the Act which speak of 'employer'.

7. Under S. 85 (a) of the Act any person who fails to pay any contribution which under the Act, he is liable to pay, may be prosecuted and it may be prosecuted and it may be argued that since the liability to pay the contribution under S 40 of the Act is upon the 'Principal employer' anybody who comes within the definition of the 'principal employer' under the Act including a director who may answer to the description of 'occupier' may be prosecuted. Under S 406 of the Indian Penal Code however the deeming provision of explanation 2 to S 405 would apply only to an 'employer' and not to a 'Principal employer'. In absence of any definition of 'employer' under the Indian Penal Code the ordinary meaning to the term 'employer' has to be given and that necessarily means the person who employs. Under S. 11 of the Indian Penal Code the word 'person' includes any Company or association or body of persons whether incorporated or not and it necessarily follows that the Indo Japan Steel Ltd. which is an incorporated company will be the employer in respect of its employees.

8. On behalf of the complainant a Division Bench judgment of the Punjab and Haryana High Court in the case of ESI Corporation vs Dhanda Engineering, reported in 1981 (42) FLR page 282 was relied upon to contend that the principal employer was also liable for prosecution under S. 406 of the Indian Penal Code. I have carefully gone through the judgment and I do not find any observation made therein to support the above contention. While referring to the explanation 2 to S 405 it was observed in the said judgment that by the said amendment a delinquent employer was brought within the ambit of the Indian Penal code. There cannot be any dispute about the observation so made, but the question that arises for consideration in this case was whether 'principal employer' can be equated with 'employer' in absence of any specific provision in the Indian Penal Code to warrant such equation. In that view of the matter the petitioners cannot be said to be 'employers' within the meaning of Explanation 2 to S 405 of the Indian Penal Code though they may be principal employers under the Act for which they might have been prosecuted under S. 85 of the Act."

In appeal by the ESI Corporation, the Supreme Court upheld the decision of the Calcutta High Court in (1998 C Cr LR (SC) 396).

"9. Therefore, even if we read the definition of "principal employer" under the Employees' State Insurance Act, 1948 in Explanation 2 to Section 405 of the Indian Penal Code, the directors of the company, in the present case, would not be covered by the definition of "principal employer" when the company itself owns the factory and is also the employer of its employees at the head office.

10. In any event, in the absence of any express provision in Indian Penal code incorporating the definition of "principal employer" in Explanation 2 to Section 405, this definition cannot be held to any to the term "employer" in Explanation 2. As the High Court has observed the term "employer" in Explanation 2 must be understood as in ordinary parlance. In ordinary parlance it is the company which is the employer and not its directors either singly or collectively.

11. In the premises we do not see any reason to interfere with the impugned judgment of the

Calcutta High Court. The appeal is therefore dismissed.”

28. **On hearing the parties and considering the materials on record the following relevant facts are before this Court.**

- a) FIR has been filed only against the petitioner, who is stated to be the proprietor of the society. Charge Sheet has also been filed only against him.
- b) The company/society was not impleaded as an accused.
- c) The provision under Section 14-B of the Employees provident fund act was not applied.

29. **Section 2(e) of the Employees’ Provident Funds & Misc. Provisions Act (herein after referred to as ‘EPF Act’), is reproduced here :-**

“2. Definitions. - *In this Act, unless the context otherwise requires, -*

(a).....

(b).....

(c).....

(d).....

(e) “Employer” means-

(i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948, the person so named; and
(ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent.”

30. **In the present case the ‘employer’ is the company ‘Suneha Education Society, but has not been made an accused nor charge sheeted.**

31. Admittedly Sec14-B of the EPF Act (a social beneficial legislation) has not been applied by the authorities.

32. The Supreme Court in **Horticulture Experiment Station Vs The Regional Provident Fund, Civil Appeal No(s). 2136 of 2012 on 23rd February, 2022 citing several precedents** held:-

“17. Taking note of three-Judge Bench judgment of this Court in Union of India and Others v. Dharmendra Textile Processors and others (supra), which is indeed binding on us, we are of the considered view that any default or delay in the payment of EPF contribution by the employer under the Act is a sine qua non for imposition of levy of damages under Section 14B of the Act 1952 and mens rea or actus reus is not an essential element for imposing penalty/damages for breach of civil obligations/liabilities.”

33. **The complainant in this case without taking recourse to the provision under Section 14-B of EPF Act opted to prosecute under Sections 406/409 of the Indian Penal Code.**

34. **Section 14-B of the Employees’ Provident Funds & Misc. Provisions Act, lays down:-**

“[14B. Power to recover damages.—Where an employer makes default in the payment of any contribution to the Fund [the [Pension] Fund or the Insurance Fund] or in the transfer of accumulations required to be transferred by him under sub-section (2) of section 15 [or sub-section (5) of section 17] or in the payment of any charges payable under any other provision of this Act or of [any Scheme or Insurance Scheme] or under any of the conditions specified under section 17, [the Central Provident Fund Commissioner or such other officer as may be

authorised by the Central Government, by notification in the Official Gazette, in this behalf] may recover [from the employer by way of penalty such damages, not exceeding the amount of arrears, as may be specified in the Scheme:]

[Provided that before levying and recovering such damages, the employer shall be given a reasonable opportunity of being heard:]

[Provided further that the Central Board may reduce or waive the damages levied under this section in relation to an establishment which is a sick industrial company and in respect of which a scheme for rehabilitation has been sanctioned by the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), subject to such terms and conditions as may be specified in the Scheme.]”

35. **The Supreme Court in Horticulture Experiment Station vs. The Regional Provident Fund (Supra)** further held:-

“Any default or delay in payment of EPF contribution by the employer under the act is a sine qua non for imposition of levy of damages under Section 14-B of the Act”.

36. The Supreme Court in ***Dayle De’ Souza Vs Government of India Through Deputy Chief Labour Commissioner (C) and Anr., in SLP (Crl.) No. 3913 of 2020, on October 29, 2021***, held:-

“27. In terms of the ratio above, a company being a juristic person cannot be imprisoned, but it can be subjected to a fine, which in itself is a punishment. Every punishment has adverse consequences, and therefore, prosecution of the company is mandatory. The exception would possibly be when the company itself has ceased to exist or cannot be prosecuted due to a statutory bar. However, such exceptions are of no relevance in the present case. Thus, the present prosecution must fail for this reason as well.”

37. **Section 14-A of the Employees’ Provident Funds & Misc. Provisions Act, lays down:-**

“[14A Offences by companies .—

*(1) If the person committing an offence under this Act [the Scheme or [the [Pension] Scheme or the Insurance Scheme]] is a company, every person, who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, **as well as the company**, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:*

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under the Act [the Scheme or [the [Pension] Scheme or the Insurance Scheme]] has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(i) “company” means any body corporate and includes a firm and other association of individuals; and

(ii) “director”, in relation to a firm, means a partner in the firm.]”

38. Paragraph 7 of **S. K. Agarwalla & Ors. Vs ESI Corporation &**

Anr. (1985 (1) CHN 113) is reproduced once again for its relevance.

“7. Under S. 85 (a) of the Act any person who fails to pay any contribution which under the Act, he is liable to pay, may be prosecuted and it may be prosecuted and it may be argued that since the liability to pay the contribution under S 40 of the Act is upon the ‘Principal employer’ anybody who comes within the definition of the ‘principal employer’ under the Act

including a director who may answer to the description of 'occupier' may be prosecuted. Under S 406 of the Indian Penal Code however the deeming provision of explanation 2 to S 405 would apply only to an 'employer' and not to a 'Principal employer'. In absence of any definition of 'employer' under the Indian Penal Code the ordinary meaning to the term 'employer' has to be given and that necessarily means the person who employs. Under S. 11 of the Indian Penal Code the word 'person' includes any Company or association or body of persons whether incorporated or not and it necessarily follows that the Indo Japan Steel Ltd. which is an incorporated company will be the employer in respect of its employees."

39. Accordingly under Section 14A of the Employees' Provident Funds & Misc. Provisions Act, every person, who at the time the offence was allegedly committed, was in charge of, and was responsible to the company for the conduct of the business of the company, **as well as the company**, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

40. Thus it is the company 'Suneha Education Society' herein who is the 'employer' in respect of its employees and not the petitioner who as the proprietor is not liable under Section 405(1) of the Indian Penal Code.

41. Thus the prosecution initiated against the proprietor of the company in his official capacity without arraying the company itself as an accused cannot continue as no offence under Section 406/409 IPC can be said to have been committed by the proprietor in his official capacity without the company being made an accused with the liability of the offence. It is trite law that vicarious liability is unknown to criminal jurisprudence unless specifically provided in the statute itself. As the Penal Code does not provide

for such provision, the proprietor/petitioner cannot be held responsible for any act of the company who is the employer and is liable for depositing the employees' share of provident fund before the provident fund authority, without making the company also an accused in the case.

42. **The revisional application being CRR 1644 of 2020 is allowed.**

43. The proceeding being Gariahat/EB Case No.80 of 2018, dated 27th March, 2018 under Sections 406/409 of the Indian Penal Code corresponding to EBGR Case No.24 of 2018 under Sections 406/409 of the Indian Penal Code, is hereby quashed.

44. **The amount of Rs. 7,50,000 deposited be adjusted by the opposite party no.2 in respect of the outstanding dues in this case. The excess if any be adjusted against any other outstanding dues for the respective period. Balance if any on payments of all dues be refunded to the petitioner.**

45. All connected applications, if any, stands disposed of.

46. Interim order, if any, stands vacated.

47. Copy of this judgment be sent to the learned Trial Court for necessary compliance.

48. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)