

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 7 of 2022

Jamir Hossain

-Vs-

The State of West Bengal

For the Petitioner	: Mr. Saptangsu Basu, Sr. Adv. Mr. Ramanand Agarwal Ms. Nebedita Pal
For the State	: Mr. Aditi Shankar Chakraborty Mr. Nilay Chakraborty
Heard on	: 08.05.2023.
Judgment on	: 12.05.2023

Ananya Bandyopadhyay, J. :-

1. A complaint was filed by a police officer in the Rank of Assistant Sub Inspector, Sadar Traffic, Jalpaiguri dated 17.01.2022 inter alia stating that the complainant at about 12:35 hours on 16.01.2022 recorded GDE No. 289 dated 16.01.2022 relating to a telephonic information disclosing, RNB loaded vehicles approaching from Goshala More proceeding towards Santipara. The complainant under the direction of the OC Sadar Traffic, Jalpaiguri accompanied by two other constables left their office and reached Santipara at 12:50 hours. Subsequently they noticed two trucks bearing no. WB/71-0182 and WGV-6089 respectively marked with "On Duty PDS Food and Supply Department, Government of West Bengal"

boards on the front portion of the said trucks moving towards Kadamtala no entry zone area. The drivers of the vehicles disobeying the beckon to stop initially escaped but ultimately halted being chased. On inspection the vehicles were found to be loaded with river bedded materials and on interrogation the drivers confessed to have loaded the truck with sand from Jalpesh river bed under Moinaguri PS to sell the same at Jalpaiguri area, intentionally affixing the board of “On Duty PDS Food and Supply Department, Government of West Bengal” in order to pass through the no entry zone area taking illegal benefit from the police authority. The trucks were seized under a proper seizure list in presence of witnesses under **Section 102** of the Criminal Procedure Code and the drivers of the said vehicles were arrested under **Section 441 CRPC** vide memo of arrest.

2. Based on the aforesaid complaint **Kotwali PS Case No. 35 of 2022 dated 16.01.2022** under **Section 419/420/467/478/471 of the Indian Penal Code** was registered which resulted in filing of **GR Case No. 332 of 2022** pending before the Learned Chief Judicial Magistrate, Sadar Court, Jalpaiguri.
3. Being aggrieved by the institution of the aforesaid **GR Case No. 332 of 2022** based on the complaint mentioned above, an application under **Section 482 of the Criminal Procedure Code** has been filed for quashing the proceedings under **Sections 419/420/467/468/471 of**

the Indian Penal Code in connection with **Kotwali PS Case Number 35 of 2022** corresponding to **GR Case No. 332 of 2022** as aforesaid.

4. The Learned Advocate for the petitioner submitted the act of the petitioner doesn't constitute any of the offences under **Sections 419/420/467/478/471 of the Indian Penal Code**. It was further submitted any wrongful act to have been committed by the petitioner would be for violation of traffic rules. The driver of the lorry did not enter the 'No Entry Zone'. The complaint did not delineate any incident concerning the petitioner to have deceived any person by impersonation or the petitioner dishonestly induced any person to deliver any property to any person or to destroy any part of the valuable security or to have forged any document or prepared any forged document to transfer the valuable security for the purpose of cheating or fraudulently or dishonestly used any forged document as genuine. Therefore, the allegations against the petitioner do not constitute any of the offences enumerated under Section 419/420/467/478/471 of the Indian Penal Code. The complaint lodged against the petitioner was without merit and the institution of the **GR Case No. 332 of 2022** was harassive in nature and the proceedings pending there under before the Trial Court should be quashed.
5. The Learned Advocate for the State submitted the petitioner to have entered into the 'no entry zone' area with an ulterior motive intentionally affixing a board "On Duty PDS Food and Supply Department,

Government of West Bengal” being aware that the sand carried by the lorry did not constitute an essential commodity and accordingly tried to manipulate the traffic authorities for sub serving his ulterior motive, contrary to law and therefore the revisional application shall be dismissed as the investigation is at the initial stage and the trial must be allowed to continue to its finality.

6. The documents seized by the defacto complainant comprise the following:-

Sl. No.	Seizure
1.	One truck bearing no. WGV-6089 with loaded sand.
2.	One road E-Challan for sand/RBM vide E-challan no. 1311566/S/21-22/160120221411/PS issue date 16/01/2022
3.	One Truck bearing no. WB-71-0182 loaded with sand.
4.	One road E-Challan for sand/RBM vide E-Challan no. 1311633S/21-22/160120221850/ps, issue date 16/01/2022
5.	R/C Book of vehicle bearing no. WB-71-0182 in the name of owner Kishore Majumdar
6.	One D/L vide no. WB-73-20100341586 in the name of driver Jamir Hossain
7.	One R/C book of vehicle bearing no. WGV-6089 (Truck) in the name of the owner Nirbhoy Chaudhury

8.	One Xerox copy of Application slip of D/L reference application no. 2356166921 dtd. 23/07/21 vide D/L no. WB-73-19890268825
9.	One Fitness Certificate of vehicle bearing no. WGV-6089 (Truck)

7. The defacto complainant did not dispute the authenticity and validity of the aforesaid documents pertaining to the trucks and or the sand being transported there in. The sand to have been stolen or disputed has not been mentioned on record. Nobody filed any complaint against such transmission of either the sand or the truck.

Section 419 of the Indian Penal Code 1860 states “*that punishment for cheating by personation.-Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.*”

Section 420 of the Indian Penal Code 1860 states “*that cheating and dishonestly inducing delivery of property.-Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.*”

Section 467 of the Indian Penal Code 1860 states “that forgery of valuable security, will, etc.-Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

Section 468 of the Indian Penal Code 1860 states “that forgery for purpose of cheating.-Whoever commits forgery, intending that the 1[document or electronic record forged] shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

Section 471 of the Indian Penal Code 1860 stated “that using as genuine a forged 1[document or electronic record].-Whoever fraudulently or dishonestly uses as genuine any 1[document or electronic record] which he knows or has reason to believe to be a forged 1[document or electronic record], shall be punished in the

same manner as if he had forged such 1[document or electronic record].”

8. The allegation against the petitioner was of affixing a sticker on the front portion of the truck which would amount to an unlawful advantage to be recouped for commuting, which do not fall within definitions of the offences as cited above. It further appears the truck to have been intercepted at a distance ahead of the **‘no entry zone’** area. There should be certain mechanism on the part of the traffic police to restrict the vehicles from plying through the **‘no entry zone’** area with such stickers for availing hassle free communication methodology. In the instant case neither the vehicle nor the sand loaded in it was illegally obtained and transmitted on account of forged documents. The only intention would have been supposedly to violate the **‘no entry zone’** for smooth communication. Therefore the complaint based on the offences under **Sections 419/420/467/478/471 of the Indian Penal Code** are not attracted against the petitioner and to allow the proceedings to continue would result into an abuse the process of law and accordingly the Criminal Revisional Application is allowed and **GR Case No. 332 of 2022** is quashed.

9. However, the traffic police must regulate certain procedures to combat any violation of the traffic rules on disguise resulting in unlawful entry and exit into ‘no entry zone’ area. Contraband articles and other illegal commodities may be transferred from one place to another for

furtherance of deceptive and disguised pursuits, which will indubitably entail serious consequences.

10. The Learned Advocate for the State is directed to communicate a copy of this order to the concerned authorities dealing with traffic control of such areas to formulate procedures for compliance by the vehicles with issuance of restrictive passes to such vehicles belonging to exempted category in the estimation of the traffic control authorities to be allowed to pass through the 'no entry zone' area as and when required coupled with strict vigilance and stringent action to prevent malpractices.
11. C.R.R. 7 OF 2022 is accordingly disposed of.
12. Lower court records along with a copy of this judgment be sent down at once to the learned trial court for necessary action.
13. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)