

31.8.2023
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SB
Ct. No.3

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRR 17 of 2022
(Through video conference)

In the matter of : Mehboob Habib Chinoy

Mr. Kanakendu Chatterjee ... for the petitioner

Mr. Bhaskar Ray Mahashaya
Mr. Sannidhya Dutta ... for the O.P. No. 2

Mr. Aditi Shakar Chakraborty
Mr. Ujjal Luksom
Mr. Arjun Chowdhury ... for the State

Heard Mr. Chatterjee learned counsel appearing on behalf of the petitioner, Mr. Ray Mahashaya, learned counsel representing the opposite party no. 2 and Mr. Chowdhury, learned counsel representing the State.

This application under Section 482 of Code of Criminal Procedure challenges the proceeding in G.R. Case No. 1743 of 2015 being Special Case No. 26 of 2016 arising out of Malbazar P.S. Case No. 194 of 2015 under Sections 406/409 of the Indian Penal Code.

From the attending facts of the case, it appears that Malbazar P.S. Case No. 194 of 2015 was registered on basis of a written information given by Enforcement Officer, E.P.F.O. Jalpaiguri alleging non-payment of contribution of both the employees and employer to the Provident Fund Authority by the Director of the company. Charge sheet was submitted on 17.5.2016 and it appears that the company has not been sent up for trial.

It is no more *res integra* that a criminal proceeding cannot be allowed to continue against the director without company being arraigned as an accused. Therefore, the proceeding being G.R. Case No. 1743 of 2015 appears to be an abuse process of law.

Invoking the provision of Section 482 of Code of Criminal Procedure, I am inclined to quash the same.

The criminal revision is disposed of.

Let a copy of the order be sent to the learned Additional District and Sessions Judge, 2nd Court at Jalpaiguri for information and necessary action.

(Siddhartha Roy Chowdhury, J.)