

31.8.2023
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SB
Ct. No.3

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRR 27 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. 4281 of 2017 being Special Case No. 02 of 2020 arising out of Matelli P.S. Case No. 140 of 2017 under Sections 406/409/34 of the Indian Penal Code.

From the attending facts of the case, it appears that Matelli P.S. Case No. 140 of 2017 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 30.04.2018 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. 4281 of 2017 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.)