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

Present:

The Hon'ble Justice Jay Sengupta

CRR 148 of 2023
Arun Kumar Das
Versus
State of West Bengal & Ors.

For the petitioner : Mr. Arijit Ghosh

Heard lastly on : 14.06.2023

Judgment on : 14.06.2023

Jay Sengupta, J.:

1. This is an application praying for quashing of a proceeding in which a charge-sheet was submitted under Sections 406, 420 read with Section 120B of the Penal Code.

2. Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the accused in this case. He is a businessman. He took a loan from a

bank in 2014 and was paying back in installments. However, after a point, from 2016 he could not repay any sum. A proceeding was started by the bank under the SARFAESI Act. In 2019, the bank also moved the Debt Recovery Tribunal for this. A First Information Report was lodged by the bank on 02.03.2019 under Sections 406, 420 and 120B of the Indian Penal Code, which has culminated in a charge-sheet dated 30.06.2019 on the same sections. It is purely a business dispute and just because there was a downsizing of the petitioner's business and he failed to pay back money to the bank that does not mean he has committed any crime. The petitioner is absolutely innocent. No prima facie case is made out as would be evident from a plain reading of the First Information Report and the charge-sheet. Any further continuation of the impugned proceeding shall be an abuse of the process of Court.

3. I have heard the submissions of the learned counsel for the petitioner and have perused the revision petition including the FIR and the charge-sheet.

4. As would be evident from the FIR, it was alleged by the bank that on 18.01.2019, the defacto-complainant went to the business address of the petitioner's firm. There they found whatever stock present in the site belonged to the another firm owned by the brother of the accused. There was no stock of the petitioner's firm available. At that time, the outstanding balance in the account of the petitioner was Rs. 21,35,362/- as on 14.07.2016 and further interest would have accrued. As per agreement dated 14.01.2014, the party had to keep 30% margin against stock. Hence, against balance outstanding of Rs. 21,35,362/- the party had to maintain stock of minimum Rs. 30,50,518/-. But, there was no stock available at the business address. This prompted the bank to lodge the FIR.

5. From a plain reading of the First Information Report, it appears that a prima facie is made out.

6. Whether such allegations are false or not and whether the accused is innocent or not are essentially disputed questions of fact, which can be decided only before the learned trial Court.

7. Therefore, this Court finds no reason to interfere with the impugned proceeding.

8. Accordingly, the revision petition is dismissed.

9. However, there shall be no order as to cots.

10. Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible

(Jay Sengupta, J.)

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