

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 267 of 2022

Smt. Sikha Goswamy @ Goswami & Anr.

Vs

The State of West Bengal & Anr.

For the Petitioners : Mr. Himanshu De,
Mr. Ansuman Bera,
Mr. Subrata Bhattacharyya.

For the State : Mr. Sudip Ghosh,
Mr. Bitasok Banerjee.

For the Opposite Party No. 2 : None.

Hearing concluded on : 13.03.2024

Judgment on : 27.03.2024

Shampa Dutt (Paul), J.:

1. The present revision has been preferred praying for quashing of the proceeding in connection with Rajarhat Police Station Case No. 246 of 2021 dated 16.09.2021 under Sections 419/420/406/465/467/468/120B of the Indian Penal Code now pending before the Learned Chief Judicial Magistrate, Barasat, North 24 Parganas.
2. The petitioners are neighbours of the deceased Anil Chakraborty who gifted the property in question to the petitioners.
3. The prosecution case in brief is that on 16.09.2021, one Sukla Chakraborty, niece of deceased Anil Chakraborty, lodged an F.I.R. before the Officer-in Charge of Rajarhat Police Station to the effect that her maternal uncle Anil Chakraborty used to reside in a flat being G+4, Sri Krishna Abasan, Reckjoani, Rajarhat.
4. It has been alleged that her maternal uncle and aunt had no children and taking advantage of such fact the petitioner No.1 used to also call him as maternal uncle and had easy access to the flat of her maternal uncle.
5. It has also been alleged that on 18.03.2018, wife of Anil Chakraborty expired and thereafter Anil Chakraborty had been suffering from mental disorder but the de facto-complainant and other relations had no access to their maternal uncle due to the petitioners.

6. It has further been alleged that on 04.03.2021, Anil Chakraborty expired and there after the de facto-complainant came to know that the petitioners illegally obtained the flat of Anil Chakraborty. Not only that, the petitioners also misappropriated his money and everything else of Anil Chakraborty.
7. As such the instant case has been started under Sections 419/420/406/465/467/468/120B of the Indian Penal Code.
8. The petitioners state that the deceased Anil Chakraborty and wife Smt. Santi Chakraborty had no children and as such the petitioner No.1 for the last 25 years used to take care of both Anil Chakraborty and Smt. Santi Chakraborty and after the demise of Smt. Santi Chakraborty on 18.03.2018, petitioner No.1 used to take care of day to day life of Anil Chakraborty.
9. That Anil Chakraborty on 27.09.2019 transferred his flat G+4 in Srikrishna Abasan situated at Reckjoani, Rajarhat in the name of Smt. Sikha Goswamy by way of a registered deed of gift which was executed at the office of the Additional District Sub-Registrar, Rajarhat, West Bengal.
10. The petitioners submit that the de facto-complainant Sukla Chakraborty being niece of Anil Chakraborty never ever visited her maternal uncle Anil Chakraborty during his life time.

11. The petitioners further submit that no other relatives of Anil Chakraborty have ever visited him or have taken care of him, till he expired on 4th March, 2021 at the age of 88 years.
12. The funeral proceedings and last rituals of Anil Chakraborty were also performed at the instance of petitioner No.1 Smt. Sikha Goswamy.
13. The petitioners state that when the gift deed was executed on 27th September, 2019, the de facto complainant did not come to agitate her grievance but has come only after the demise of her maternal uncle on 4th March, 2021.
14. The petitioner No.1 states that she has neither obtained the flat in question by illegal and fraudulent means nor misappropriated any money from deceased Anil Chakraborty.
15. The petitioners further submit that petitioner No.1 is the bonafide owner of the flat in question obtained/acquired by a registered gift deed from the donor and as such the question of cheating and forgery or forgery for the purpose of cheating does not arise at all.
16. Hence the revision.
17. **From the written complaint dated 16.09.2021**, filed by the opposite party no.2 it appears that she is the niece of the deceased Anil Chakraborty who died on 18.03.2018.
18. She has stated that after the death of his wife, the said Anil Chakraborty was mentally disturbed and taking advantage of his

helplessness, the petitioners who are his neighbours exploited him financially and also misappropriated his property.

19. The complainant has further stated that the petitioners did not allow the complainant and other family members to meet or come near the said Anil Chakraborty and have exploited him financially and misappropriated his property by forgery and other wise.
20. The state has placed the case diary along with a report dated 19.02.2024, **submitted by the Sr. Manager Punjab National Bank wherein it has been Stated as follows:-**

*"The S I
Rajarhat Police Station,
Rajarhat.*

19.02.2024

Dear Sir,

*Sub : P.S. Case no. 246/21 dated 16.09.2021 –Detail of
Account 0145010110116*

*In reference to the subject, your letter dated
19.02.2024 we beg to say.*

1. *We are unable to ascertain the actual date when Sikha Goswami was added to the subject account however we are enclosing a cheque whereby it is evident that **Sikha Goswami was an existing joint holder with account holders Anil Chakraborty and Santi Chakraborty.***
2. *A 20 page cheque book had been issued to the customer on 25.11.2019 and by using one of the cheque leaves, being no. 984828, Rs. 8,20,000.00 (Rs. Eight lac twenty thousand only) has been transferred to Smt. Sikha Goswami's account held with Bank of Baroda bearing account no. 80850100001752; IFSC – BARBODBRAJR on 27.07.2021 with UTR no. PUNBR52021072713222167."*

21. It is thus clear that the petitioner no.1 **Sikha Goswami was a joint holder of the account holders Anil Chakraborty and Santi Chakraborty**. As such the contention of the complainant that the said Anil Chakraborty was allegedly exploited after the death of his wife is not substantiated.
22. From the record, it appears that, prima facie Anil Chakraborty's flat at Rajarhat was transferred (by way of a gift) in the name of the petitioner no.1 on 8th November, 2019. Anil Chakraborty expired on 04.03.2021.
23. **The fact that the deceased and his wife's account were jointly held with the petitioner no.1 goes to prima facie show that the petitioner was trusted by them (by Anil Chakraborty and Santi Chakraborty).**
24. During their lifetime, the complainant did not lodge any complaint with the authorities regarding the alleged torture, misappropriated forgery, etc. **The present case has been filed six months after the death of Anil Chakraborty.**
25. **The transfer of property if disputed, is a matter for the Civil Court to decide. The transfer of money from the joint account to the account of the petitioner is also as per rules of the bank, as the petitioner no.1 being the joint holder, is not disputed.**
26. As such there is prima facie, no materials in respect of the offences alleged in this case against the petitioners and permitting such a case to proceed for trial will be an abuse of the process of Court.

27. CRR 267 of 2022 is allowed.

28. The proceeding in connection with Rajarhat Police Station Case No. 246 of 2021 dated 16.09.2021 under Sections 419/420/406/465/467/468/120B of the Indian Penal Code now pending before the Learned Chief Judicial Magistrate, Barasat, North 24 Parganas, **is hereby quashed in respect of the petitioners.**

29. All connected applications, if any, stand disposed of.

30. There will be no order as to costs.

31. Interim order, if any, stands vacated.

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

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

(Shampa Dutt (Paul), J.)