

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 512 of 2017
With
CRAN 3 of 2017 (Old No. CRAN 4274 of 2017)

Narendra Kumar Poddar
Versus
The State of West Bengal & Another

For the Petitioner : Mr. Mayukh Mukherjee, Adv.

For the State : Ms. Faria Hossain, Adv.
Ms. Mamata Jana, Adv.

Heard on : 13.11.2024

Judgment on : 18.12.2024

Ajay Kumar Gupta, J:

1. Petitioner being the accused has prayed for quashing of the proceeding in connection with G.R. Case No. 1784/12 arising out of

Shakespeare Sarani Police Station Case No. 121/2012 dated 4th May, 2012 under Sections 11J and 11L of the West Bengal Fire Services Act, 1950, now pending before the Court of the Learned Metropolitan Magistrate, 4th Court, Calcutta by way of filing this Criminal Revisional application under Section 482 of the Code of Criminal Procedure, 1973.

2. The brief facts of the case are to the effect that on 29th March, 2012 at about 8.10 pm, a fire broke out on the 10th Floor room of a building B+ G+11 storied, situated at 50, Jawaharlal Nehru Road, Kolkata – 700 071. To combat the fire, 11 Fire engines along with “TTL” were deployed. During the inspection, it was observed that the in-built Fire fighting system was completely non-functional condition. Consequently, the petitioner received a notice dated 31st March, 2012 issued under Section 35 of the West Bengal Fire Safety Act, 1950 by the opposite party no. 2 instructing the petitioner to submit a Fire Safety Certificate/NOC within a span of three days from the receipt of receiving the letter. In the said letter, the petitioner was addressed as “Owner/Occupier” of 50, Jawaharlal Nehru Road, Kolkata - 71.

3. An FIR was subsequently registered based on the letter of complaint lodged by the Station Officer, Head Quarters Fire Station to

the Officer-in-Charge, Shakespeare Sarani Police Station on 27.04.2012 alleging that the petitioner and others failed to comply with the fire safety system which posed a constant life-threatening risk. This was said to be a violation of Section 11C of the West Bengal Fire Services Act, 1950 as amended thereto. As a result, the petitioner was accused of committing an offence punishable under Sections 11J and 11L of the West Bengal Fire Services Act, 1950. On the basis of said written complaint, Shakespeare Sarani Police Station Case No. 121/2012 dated 4th May, 2012 under Sections 11J and 11L of the West Bengal Fire Services Act, 1950 has been registered and initiated an investigation and finally submitted charge sheet against the present petitioner.

4. The petitioner contended that he is neither the owner nor occupier of the said building located at 50, Jawaharlal Nehru Road, Kolkata – 700 071. On the date of incident, he was a chairman in a company named “Orient Beverages Limited” and the said company is a public limited company registered under the Companies Act, 1956. The said company is engaged in the business of manufacturing and marketing of packaged drinking water under the brand name “Bisleri”. The registered office of the said company situated at 3rd Floor, Aelpe Court, 225C AJC Bose Road, falling within the

jurisdiction of Ballygunge Police Station. Therefore, the petitioner is no way connected with the said building or incident.

5. The building located at 50, Jawaharlal Nehru Road, Kolkata – 700 071 was owned by “The Trust Estate of Raja Rajendra Mullick Bahadur Trust”. On 29th September, 1965, through a deed of agreement, the said land was leased to a company named “Aelpe Finance Limited” by “The Trust Estate of Raja Rajendra Mullick Bahadur Trust”. The said “Aelpe Finance Limited” was a public limited company, engaged in the business of real estate.

6. After acquiring the said land on lease, “Aelpe Finance Limited” constructed two buildings on the property. In the year 1979, “Aelpe Finance Limited” was amalgamated with the said company, pursuant to which, the said company took possession and control of the property. Subsequently, the said company assigned the possession of the two buildings to various entities such as SAIL, ONGC, APL, and Crompton Greaves etc. It is of immense importance to note that at the time of the incident, the said company was not in possession of a single square foot in the building where the alleged incident of fire occurred.

7. A letter dated 07.04.2012 was written to the Officer-in-Charge, Shakespeare Sarani Police Station by the General Manager of

Orient Beverages Limited stating the facts that the portion, where the fire took place, was neither under the ownership nor control of the said company. The entire 10th Floor of the said building owned by the company named and styled as M/s. Rajendra Kumar Shroff and others, where the fire broke out. The said portion was let out by M/s. Rajendra Kumar Shroff and others to another proprietorship, named M/s Siddharth Carriers Pvt. Ltd. and also furnished the necessary information regarding the said incident to the investigation officer. But, despite the fact, a charge sheet was submitted against the present petitioner though the present petitioner is totally innocent. Hence this Criminal Revisional application.

SUBMISSION ON BEHALF OF THE PETITIONER:

8. Learned counsel appearing on behalf of the petitioner submitted that the petitioner was neither the owner nor the occupier of the said building where the fire broke out. He is totally innocent and in no way connected with the alleged offences. He has already informed to the Officer-in-Charge of Shakespeare Sarani Police Station with regard to his role in the said building is limited to that of a maintenance contractor providing maintenance and security service etc.

9. It was further submitted that the fire initially broke out in the office room of M/s Siddharth Carriers Pvt. Ltd. and may have spread to an adjacent office which was let out by the aforesaid M/s Rajendra Kumar Shroff and others.

10. It was further argued that the allegation in the FIR does not disclose any offence committed by the petitioner at all mere bald allegations cannot be served as a valid basis for initiating proceedings under Sections 11J/11L of the West Bengal Fire Services Act, 1950. No useful purpose will be served by allowing the impugned proceedings any further and if the proceeding continues, it would be an abuse of process of law and to secure the ends of justice, the proceeding is liable to be quashed.

SUBMISSION ON BEHALF OF THE STATE:

11. On the other hand, the learned counsel appearing on behalf of the State produced the Case Diary and submitted that the petitioner is the sole responsible person for such incident that occurred in the commercial building. The petitioner was/is the Chairman of Orient Beverages Limited, a company involved in the maintenance of electricity, water and other services. The maintenance of the said building was under the said Orient Beverages Limited, where the petitioner holds a position of the Chairman. The petitioner

was responsible for maintaining the said building upon receiving considerable charges and the occupiers of the said building were paying maintenance charge to Orient Beverages Limited. It was the duty of the petitioner to keep the firefighting system active and to obtain fire safety certificate/NOC from all concerned Fire Services Departments. The Chairman of the Orient Beverages Limited was sole responsible for defunct fire service of the above commercial building. During investigation, sufficient materials were collected against the present petitioner and finally a charge sheet has been submitted against the present petitioner under Sections 11J and 11L of the West Bengal Fire Services Act, 1950. Therefore, this Criminal Revisional application is liable to be dismissed.

DISCUSSIONS AND FINDINGS BY THIS COURT:

12. Heard the submissions of both the parties and on perusal of the records, this Court finds that the fire took place at the 10th Floor room of a building B+ G+11 storied, situated at 50, Jawaharlal Nehru Road, Kolkata – 71. After the incident, a letter was issued to the present petitioner requesting him to submit the Fire Safety Certificate/NOC. Despite a reminder being issued, subsequently, no Fire Safety Certificate/NOC was furnished by the petitioner.

13. Section 35 of the Fire Services Act, 1950 reads as under: -

“35. Issue of notice to owner or occupier to undertake fire prevention and fire safety measures.- (1) The Director or the superior nominated authority, as the case may be, shall, after completion of the inspection of the building or part thereof or the premises referred to in section 34, record his or its views on the deviations from, or contravention of, the requirements with regard to the fire prevention and fire safety measures or the inadequacy of, or non-compliance with, such measures provided or to be provided therein with reference to the structure of the building or the premises or the nature of activities carried on in such building or part thereof or premises and issue a notice to the owner or occupier of such building or part thereof or premises directing him to undertake such measures, and within such time, as may be specified in the notice. When the owner is not available, the occupier shall undertake such measures in the interest of public safety, notwithstanding anything contained in any other law for the time being in force”.

14. During investigation, statements were recorded under Section 161 of the Cr.PC of the person, who were available in the said multi-storied building and it was found that M/s. Orient Beverages

Limited, having its Office at 3rd Floor, Aelpe Court, 225C AJC Bose Road, was/is a maintenance contractor providing maintenance, electricity, water and other services at the above commercial building for a considerable charges. The said company was also responsible for the fire safety measures of the building and collected aggregated maintenance charges from the occupiers of the building. It was their duty to collect Fire Safety Certificate/NOC from the relevant Fire Services Departments since it was a commercial multi-storied building. The present petitioner is a Chairman of M/s. Orient Beverages Limited who was in charge of the entire management. The Fire Services personnel also observed the non-functional fire fighting measures at the above building while attempting to extinguish the fire. Therefore, a prima facie case has been established against the present petitioner under Sections 11J/11L of the West Bengal Fire Services Act, 1950 as it is violated the aforesaid statutory provisions.

15. From the perusal of the statements recorded under Section 161 of the Cr.PC of the witnesses, it appears prima facie materials were found against the present petitioner. Occupiers of the said building were paying maintenance charges to the company, namely, M/s. Orient Beverages Limited, as such, the petitioner was in charge of maintenance of electricity, water and other services. Accordingly, at

this stage, this Court cannot embark upon the findings that the petitioner is not the responsible person for the said fire without trial.

16. We should not forget, the Hon'ble Supreme Court in ***Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and Others***¹ has laid down the several principles to be followed by the Court while exercising its power under Section 482 of the Cr.P.C. or under Article 226 of the Constitution of India. Those principles are as follows:-

“i) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the ‘rarest of rare cases (not to be confused with the formation in the context of death penalty).

ii) Criminal proceedings ought not to be scuttled at the initial stage;

iii) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

iv) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the Court to be

¹ (2021) SCC Online SC 315

more cautious. It casts an onerous and more diligent duty on the Court;

v) While examining an FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

vi) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

vii) When a prayer for quashing the FIR is made by the alleged accused and the Court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The Court is not required

to consider on merits whether or not the merits of the allegations make out a cognizable offence and the Court has to permit the investigating agency/police to investigate the allegations in the FIR;"

17. In view of the above facts and discussions, this Court finds principles contained in Sl. Nos. (ii), (v), (vi) and (vii) are squarely applicable in the present case. Accordingly, the instant Criminal Revisional application has devoid of merit and required to be dismissed.

18. Consequently, **CRR No. 512 of 2017** is **dismissed**. Connected application being **CRAN 3 of 2017 (Old No. CRAN 4274 of 2017)** is also, thus, disposed of.

19. Let a copy of this Judgment be sent to the Learned Trial Court for information.

20. Case Diary, if any, is to be returned to the learned counsel for the State.

21. Interim order, if any, stands vacated.

22. All parties will act on the server copies of this Judgment uploaded from the official website of this Court.

23. Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal formalities.

(Ajay Kumar Gupta, J)

P. Adak (P.A.)