

21.03.2024
Item no. 31
Ct.32
(Suvendu)

**C.R.R. 600 of 2017
With
CRAN 3/2017 (CRAN 5264/2017)**

In the matter of :- Rajendra Kaimal & Ors.

... Petitioner

Mr. Soumya Nag
Mr. Rupal Singh
Mr. Ashok Kumar Singh

...for the Opposite Party No.2

Mr. Debasish Roy, Ld. PP
Ms. Sreyashee Biswas

.....for the State

Nobody appears on behalf of the petitioners. No accommodation is sought for.

Even on earlier occasion, no one represented the petitioners. No accommodation was sought for.

An application under Sections 397/401 read with Section 482 of the Cr.P.C. has been filed by the petitioners challenging the correctness, legality and propriety of a judgment passed by the learned Chief Judge, City Sessions Court, Calcutta on 9th December, 2016 thereby the learned Chief Judge set aside the order dated 28th March, 2016 passed by the learned Additional Chief Metropolitan Magistrate II, Calcutta in Misc. Case No. 22 of 2016 and allowed the petition under Section 156(3) of the Cr.P.C.. The petition was also sent to Officer-in-Charge, Bowbazar Police Station for investigation after treating the same as FIR.

Upon such direction, an FIR was registered being Bowbazar Police Station Case No. 11 dated 9th January, 2017 under Sections 120B/420/467/468/471/471A of the IPC and started investigation against Rajendra Padmanabhan Kaimal and other accused persons.

The brief facts of the case are as follows.

On 30.11.2012 the complainant/ Opposite Party No. 2 lent an advanced sum of Rs. 8 crores to Arch Pharmalabs Ltd. by way of Inter Corporate Deposit through a written agreement. The present accused persons did not pay any amount either principal or interest. Subsequently to discharge their liability and debts issued several cheques dated 29.10.2014, 26.11.2014, 24.12.2014, 21.01.2015, 28.02.2015, 28.02.2015 amounting to Rs. 2,00,00,000/-, Rs. 2,00,00,000/-, Rs. 2,00,00,000/-, Rs. 2,00,00,000/-, 72,000/-, 90,000/- and 9,62,00,000/- . Those cheques were presented before the Bank of the complainant but those cheques were dishonoured for insufficient funds. Thereafter an amount of Rs. 24,89,39,590/- is falling due and payable by the petitioners to the complainant. The said amount includes principal and accrued interest as well as penalty. Their intention was mala fide and dishonest from the very beginning.

It is alleged that they have fraudulently and dishonestly omitted and suppressed to provide in the liability column in the balance sheet, which is an offence punishable under Section 467 read with Section 477A of the IPC. They have also committed offence of criminal breach of trust punishable under Section 409 IPC and forgery of books of accounts and balance sheet being punishable under Sections 467/468/471/477A of IPC. The accused persons have also acted in furtherance of their common intention to cheat the complainant and its shareholders and public at large and as such they are also liable to be punished under Section 34 of the IPC.

Under such circumstances, the opposite party no. 2 filed a case under Section 156(3) of the Cr.P.C. for registration of the FIR against the present petitioners.

The said case was registered as Misc. Case No. 22 of 2016 before the learned Additional Chief Metropolitan Magistrate II, Calcutta. By the order dated 28th March, 2016, the learned Magistrate rejected the prayer made under Section 156(3) of the Cr.P.C. Thereafter, the opposite party no. 2 preferred a revisional

application before the learned Chief Judge, City Sessions Court, Calcutta and by an order dated 9th December, 2016, the learned Chief Judge, City Sessions Court, Calcutta has accepted the contention of the opposite party no.2 and finally allowed the petition and further directed the Officer-in-Charge, Bowbazar Police Station to register an FIR and start investigation in the case.

Considering the submission of the learned counsels for the State and opposite party no.2 and on perusal of the Case Diary, this Court finds that there is no illegality either in the order of the learned Magistrate or in the order of the learned Chief Judge, City Sessions Court, Calcutta. This Court also finds no sufficient reasons or ground to hold that the impugned order is incorrect, illegal or perverse or without any jurisdiction and law.

In such circumstances, the instant revisional application is devoid of merits, thus dismissed without any order as to costs.

Consequently CRAN 3 of 2017 is also disposed of.

Interim order, if any, stands vacated.

Let a copy of this order be communicated to the learned Court below for information.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Ajay Kumar Gupta, J.)

