

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISION JURISDICTION
(APPELLATE SIDE)**

Present:

The Hon'ble Justice Rai Chattopadhyay

C.R.R 608 of 2015

Kanishk Sinha & Anr.

Vs.

The State of West Bengal

With

C.R.R 3610 of 2011

Lipika Das (Sinha)

Vs.

The State of West Bengal & Ors.

With

C.R.R 483 of 2013

Kanishk Sinha & Anr.

Vs.

The State of West Bengal

With

C.R.R 641 of 2015

Kanishk Sinha & Anr.

Vs.

The State of West Bengal

With

C.R.R 794 of 2015

Kanishk Sinha & Anr.

Vs.

The State of West Bengal

With

C.R.R 795 of 2015

Kanishk Sinha & Anr.

Vs.

The State of West Bengal

For the Petitioners
(in person)

: Mr. Kanishk Sinha.

For the O.P No. 2

: Mr. Sanjay Banerjee.

Judgment on : 27/06/2024

Rai Chattopadhyay, J.

1. Six revisions are enlisted together, heard together and shall be disposed of by dint of this common judgment, as the subject matters thereof are related and intertwined. The present revisionist and another person are the accused persons in the two criminal cases, pertaining to which all these six revisions arise.

2. The two first information reports are as follows:

(i) Bhowanipur Police Station Case No. 179 of 2010 dated 27.04.2010
and

(ii) Bhowanipur Police Station Case No. 298 of 2011 dated 06.07.2011.

One Sri Keyur Majumder is the complainant in the first information report, registered as Case No. 179 of 2010 dated 27.04.2010. The name of the complainant in Case No. 298 of 2011 dated 06.07.2011, is Smt. Supriti Bandyopadhyay. Both the revisionists are the accused persons in the said two criminal cases.

3. The nature of allegation by both the complainants, in those two criminal cases, are similar against the present revisionists. Forgery, fraud, deception, cheating, damage caused to the reputation, unlawful extraction of money, threat, misrepresentation and criminal conspiracy – are the complaints and/or offence, as have been alleged against the revisionists.

4. Sri Keyur Majumder has stated in his complaint *inter alia* that, the first petitioner hosts a website, that is, ***www.ministryofnarcoticscontrol.com***. He sends mail to harass, threat and fraudulently induce the complainant from the ID namely, ***commissioner@ministryofnarcoticscontrol.com***. That, the petitioner/accused has sent ***e-warrant*** dated 02.01.2010. Allegedly, the entire is the fraud practice, cyber crime and cheating committed by the present petitioners. The other specific allegation as made against the present petitioners in the said complaint is regarding fraudulently extracting an amount of Rs. 80, 000/- by the petitioner from the said complainant. Pursuant to the said complaint, Bhowanipur Police Station Case No. 179 of 2010 dated 27.04.2010 has been lodged under Sections 120-B, 420, 467, 468, 469, 471 of the Indian Penal Code and Section 66-A(b) of the Information Technology Act, 2000.
5. The complaint made by Smt. Supriti Bandyopadhyay would say firstly about the false representation by the present petitioner to represent himself as a scientist and director of a company, namely Jasper Motor (P) Ltd, having its registered office in U.S.A. According to this complainant, the other complainant was introduced to the petitioner by her. This complainant has reiterated in her complaint about the alleged deceitful extraction of an amount of Rs. 80, 000/- by the present petitioner, from the other complainant. This complainant has further stated that after being released from custody in connection with the earlier case, that is, Bhowanipur Police Station Case No. 179 of 2010 dated 27.04.2010, the petitioner threatened, heckled and harassed the complainant by creating two forged affidavits, with false signature of the complainant and containing false statements, that the other criminal case against the petitioner was a false case by the complainant therein, on behalf of the present complainant and also that she has taken from the accused/petitioner a sum of Rs. 5, 00, 000/- but has not refunded. The complainant says that both the affidavits were blatant and flagrant false

and those were manufactured by the present petitioner, for oblique motive. Pursuant to the said complaint, Bhowanipur Police Station Case No. 298 of 2011 dated 06.07.2011 has been lodged under Sections 466, 469, 471 and 120-B, of the Indian Penal Code.

6. The accused persons/petitioners have challenged the first information report and the charge sheet in Bhowanipur Police Station Case No. 179 of 2010 dated 27.04.2010, in CRR No. 3610 of 2011 and CRR No. 794 of 2015.
7. Similarly, they have challenged the first information report and the charge sheet in Bhowanipur Police Station Case No. 179 of 2010 dated 27.04.2010, in CRR No. 608 of 2015 and CRR 794 of 2015.
8. CRR 483 of 2013 and CRR 641 of 2015 are two other revisions by the petitioners to challenge different orders passed by the Sessions Judge/Magistrate, in connection with the cases pursuant to those two first information reports as mentioned above.
9. The petitioner No. 1 (appearing-in-person) has two specific points to plead. Firstly, he argues with the provisions under Section 154 (1) and (3) of the Cr.P.C, that those are mandatory in nature and have not been followed in this case by the Magistrate. Thereafter he says that, so far as the allegations under Section 466 of the Indian Penal Code are concerned, a private complaint would not be maintainable.
10. So far as the other allegations as made in the said two complaints as mentioned above, according to the revisionists, the ingredients of any of the offence as alleged would not be found to have been made in the said complaints. Hence, in absence of any *prima facie* material to make out a case in the complaint as alleged, the proceeding before the criminal Court against them would be an abuse of the process of the Court, the revisionists submit. The revisionists seek an order quashing the criminal proceedings pursuant to Bhowanipur Police Station Case No. 179 of

2010 dated 27.04.2010, and Bhowanipur Police Station Case No. 298 of 2011 dated 06.07.2011.

- 11.** Mr. Sanjay Banerjee is appearing for the State respondent. According to him however, during investigation sufficient materials could have been gathered against the revisionists, justifying trial against them. Gravity of the offence is the other contention of the State respondent for which and in view of the collected materials the State is willing to proceed in trial.
- 12.** Whoever cheats and thereby dishonestly induces the person deceived, to deliver any property or to make alter or destroy the whole or any part of the valuable security, would be punishable under Section 420 of the Indian Penal Code. As to what would constitute an act of cheating is enumerated under Section 415 of the Code. The ingredient of such offence has been narrated to be deception, fraudulent and dishonest inducement leading to delivery of any property. A dishonest concealment of facts would be a deception within the meaning of this Section, as per the explanation appended to Section 415 of the Indian Penal Code.
- 13.** Allegation as made against the present revisionists in the two First Information Reports as mentioned above is with regard to impersonation by himself to show owning a business having Head Office in U.S.A. Also materials are sufficiently brought on record to show that by creating an ingenuine website and e-mail ID, the accused persons have conducted themselves fraudulently by projecting apparent misleading information about themselves. Documents have been collected and are said to be ready to be placed in trial. Thus it cannot be said that no case has been made out against the petitioners or that not any ingredient of offence is available against them, sufficient to go into the trial of the case.
- 14.** The preliminary point of objection as to the maintainability of the criminal cases by the revisionists, on the basis of the provisions as laid down in Section 154 (3) of the Cr.P.C as well as the ratio of the decision

by the Hon'ble Supreme Court in **Priyanka Srivastava's** case (**Priyanka Srivastava vs. State of U.P reported in (2015) 6 SCC 287**), is untenable, in view of the fact that the complaints in the present case have been lodged in the years 2010 and 2011 respectively, whereas the Supreme Court has formulated the criteria of the complaint to be mandatorily accompanied with an affidavit by the complainant, in the year 2015 and having only prospective affect. Therefore in the considered opinion of this Court the revisionists cannot take shelter under the ratio of the decision of the Hon'ble Supreme Court in **Priyanka Srivastava's** case as mentioned above, the same not bearing any retrospective effect, to cover the complaints lodged against the revisionists, in 2010 and 2011 respectively.

15. In view of such fact this Court cannot form an opinion at present that while taking cognizance of the written complaint and passing an order under Section 156 (3), the Magistrate has erred in any manner to apply his mind to the facts and allegations narrated in the said complaint.
16. The argument on this, by the revisionists would not be sustainable. Instead, this Court is of the opinion that an expeditious trial would be necessary to allow the prosecution an opportunity to bring home the charges, as leveled against the present revisionists.
17. Thus, no merit can be found in the revisions being CRR No. 3610 of 2011 and CRR No. 795 of 2015, CRR No. 608 of 2015 and CRR No. 794 of 2015. All the said four criminal revision cases are thus dismissed.
18. CRR No. 483 of 2013 and CRR No. 641 of 2015, having arisen from the Police Station Cases, as mentioned above, are dismissed being in fruituous.
19. Since the two First Information Reports as, are involved in these revisions pertain to the years 2010 and 2011 respectively and since in both cases charge sheets have already been submitted, it is expected that the trial Court would expeditiously proceed to conclude the trial, as early

as possible but not later than a period of six months from the date of communication of this order.

- 20.** Urgent Photostat certified copy of this judgment, if applied for, be given to the parties upon compliance of all formalities.

RAI
CHATTOPAD
HYAY



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(Rai Chattopadhyay, J.)

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