

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 1175 of 2023

With

CRAN 1 of 2023

Rajesh Kewat

Managing Director, Fast Info Legal Services Private Limited

Versus

The State of West Bengal & Another

For the Petitioner : Mr. Hindol Nandi, Adv.
Ms. Satarupa Sarkar, Adv.
Mr. Swarnava Mukherjee, Adv.

For the Opposite Party No. 2 : None

For the State : Mr. Rudradipta Nandy, Adv.
Ms. Sanjana Saha, Adv.

Heard on : 25.09.2024

Judgment on : 13.11.2024

Ajay Kumar Gupta, J:

1. This Criminal Revisional application has been preferred by the petitioner/accused under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of the proceedings being G.R. No. 262/2023 arising out of Bidhan Nagar Cyber Crime P.S. Case No. 30/23 dated 17.03.2023 under Sections 406/420/120B of the Indian Penal Code, 1860 pending before the Court of the Learned Additional Chief Judicial Magistrate at Bidhannagar, North 24 Parganas including all orders passed therein.

2. The brief facts of the instant case are relevant for the purpose of disposal of this case are as under:

2a. Victim lady/Opposite Party No. 2, namely, Manju Sharma lodged a written complaint before the Officer-in-Charge, Bidhan Nagar Cyber Crime Police Station accusing therein to the effect that on 23.01.2023 she received a phone call to her mobile number from an unknown number being Mobile No. 9953017414, where the caller told her that a gift voucher worth Rs. 4,000/= has been issued to her Kotak Mahindra Bank Credit Card No. 4166445104624951.

2b. It has been further alleged that the caller introduced himself as a bank employee and asked her to activate the card as per his

instructions over phone for receiving the aforesaid amount. She followed his instructions and during the process, a sum of Rs. 12,000/= was allegedly debited from her Credit Card. She realized she has been cheated by the caller. Thereafter, she started searching on Google Chrome for a way to report such incident and during her search, she came across one website, namely, "*Online Legal India*", where there was an option to fill up the Customer Information Form on its portal.

2c. It is further alleged that another phone call was received by her from a phone number being No. 08069029400 and the caller instructed her to provide some personal information and the bank account details related to fraud and cheating committed upon her. Caller further assured they will help her to get back her money which was cheated. It was further alleged the caller asked her not to approach any police station for lodging complaint because police authority will only lodge a General Diary instead of registering an FIR. The caller claimed that they have their own cyber cell, where they will register FIR and for that they will charge a sum of Rs. 1,179/-. The said amount was paid from her SBI Bank Account No. 32339684896. But, despite their assurance, neither copy of FIR was provided to her nor any action has been taken by them. No service was provided to her though they have charged for. After searching their website, it

could be revealed that the name of the company is “Fast Info” and its Director is Rajesh Kewat.

2d. It has been further alleged that under the banner of one Website, namely, “<https://www.onlinelegalindia.com>”, the said company has duped so many persons in the same manner as was done to the Opposite Party No. 2. The complainant tried to contact the company further but they did not agree to talk with her and further responded with offensive languages to her. She has been duped by the said company again.

2e. On the basis of aforesaid complaint, a Bidhan Nagar Cyber Crime P.S. Case No. 30/23 dated 17.03.2023 under Sections 406/420/120B of the Indian Penal Code, 1860 was started against the Petitioner and two others.

2f. On the contrary, the contention of the Petitioner is different. The company has a business to provide legal advice and legal assistance upon charging some fees from the client. The company has immediately taken steps for filling up an online complaint before Bidhan Nagar Commissionerate by filling up the necessary proforma on 23.01.2023. Immediately upon filling up such online complaint on the cyber crime portal, an acknowledgement number being 23201230003075 was issued.

2g. After lodging such online complaint on behalf of the Opposite Party No. 2 through the National Cyber Crime reported portal, acknowledgement receipt dated 23.01.2023 was immediately issued to her in lieu of money charged from her. The company has charged a sum of Rs. 1,179/= for service rendered to her. The company has rendered its service legally to her without duping her from any manner. Despite the said facts, on 17.03.2023 the police authority arrested the Petitioner and two other co-accused in connection of instant case without serving any notice in terms of Section 41A of the Code of Criminal Procedure, 1973.

2h. The Investigating Agency has also sealed the entire company premises without conducting a proper inquiry. As a result thereof, the operations of works of the company are on hold and a total 358 employees have become jobless all on a sudden due to the illegal act of the Investigating Agency. Due to such illegal sealing of the company, the employees as well as the Petitioner suffered serious miscarriage of justice.

2i. The Petitioner is absolutely innocent. He has not committed any offence as alleged and has been falsely implicated into this case. No specific overt act has been attributed to the Petitioner as such

entire proceedings are liable to be quashed for securing the ends of justice.

2j. Under the above facts and circumstances, Petitioner has compelled to file this Criminal Revisional application before this Hon'ble High Court with his prayer as aforesaid and same has come up before this Bench for its disposal.

SUBMISSION ON BEHALF OF THE PETITIONER:

3. Learned counsel appearing on behalf of the Petitioner vehemently argued and submitted that the allegation of the de-facto complainant is concocted and fabricated only to implicate the Petitioner falsely into this case out of grudge. The allegation narrated by the de-facto complainant is totally absurd and false since she has paid fee amounting to Rs. 1,179/= for rendering legal service to the Opposite Party No. 2. Actually, the Company is the legal service provider through online service and charged service fees from the client. The relation between the Company and the de-facto complainant is of a service provider and a client. The impugned proceeding, complained of, has been continuing on the basis of misconception of cheating or duping anyone. Question of 'cheating' or 'duping' anyone does not arise because the specific or particular overt act or any sufficient ingredient has not been placed or attributed to

the company or against the petitioner for cheating or duping anyone. Therefore, the instant proceedings suffer from gross illegality as such same are liable to be quashed.

4. It was further submitted that it would be evident from the FIR itself that the allegations, even if taken on its face value, do not satisfy the ingredients of Sections 406/420/120B of the Indian Penal Code, 1860. Accordingly, the instant case is totally false and frivolous only to harass the Petitioner. Accordingly, the proceeding is liable to be quashed otherwise petitioner would suffer greatly and prejudice upon such false allegation and initiation of investigation.

5. None appeared on behalf of the Opposite Party No. 2 in spite of service. No accommodation was sought for.

SUBMISSION ON BEHALF OF THE STATE:

6. On the other hand, Mr. Nandy, learned counsel appearing on behalf of the State strenuously argued and submitted that the allegation is genuine. The company and its Director are very much involved in duping innocent people by way of cyber-crime. Learned counsel produced the Case Diary and draws attention to this Court with regard to the statements of the several victims. During investigation, the Investigating Officer recorded the statements of the

several witnesses under Section 161 of the CrPC. Huge numbers of relevant documents, incriminating articles and gadgets were seized.

7. Online Legal India is online legal service provider portal of the organisation, namely, Fast Info Legal Services Pvt. Ltd., works in the field of consumer complaint, ROC registration, Tax filing, GST filing, FSSAI Certificate, Trade Mark Certificate etc. The common people, who are in need of such services, can reach through their Google Platform. The team of the company or organisation used to communicate through mobile phones with the person who knocked them for legal service and convinced the persons to pay a certain amount as their asking service. But, after payment of fees charged by them, no appropriate action or steps taken by the company. As a result, the complainant did not get any redressal on time from any authority and faced a loss of their hard earn savings. Investigation is under process to unearth the truth and also to find out the illegal activities of the Company, which is duping people of all over India. Accordingly, there is a strong prima facie case against the present Petitioner. Accordingly, the application filed by the Petitioner praying for quashing of the proceeding is liable to be dismissed.

DISCUSSIONS, ANALYSIS AND CONCLUSION BY THIS COURT:

8. Heard the arguments of the parties and on perusal of the materials available in the Case Diary as well as record, it appears on 17.03.2023 a complaint was received from the de-facto complainant to the effect that on 23.01.2023 she received a phone call in her mobile number from an unknown number being Mobile No. 9953017414, where the caller told her that a gift voucher worth Rs. 4,000/= has been received to her Kotak Mahindra Bank Credit Card No. 4166445104624951. It further appears that the aforesaid caller introduced himself as a bank employee and asked her to activate the card as per his instructions over phone for getting the aforesaid amount. She had followed the instructions and in the process, a sum of Rs. 12,000/= was allegedly debited from her Credit Card. She realized she has been cheated by the caller. Thereafter, she started searching on Google Chrome for reporting such incident and during search, she found one website, namely, "*Online Legal India*", where there was an option to fill up the Customer Information Form on its portal.

9. It further appears that another phone call was received by her from a phone number being No. 08069029400 and the caller instructed her to provide some personal information and the bank

account details regarding fraud and cheating committed upon her. Caller further assured they will help her to get back her money which was cheated. It was further alleged the caller asked her not to go any police station for lodging complaint because police authority will only lodge General Diary instead of registering an FIR. Caller stated that they have their own cyber cell, where they will register the FIR and for that they will charge a sum of Rs. 1,179/-. The said amount has been paid from her SBI Bank Account No. 32339684896. But, despite assurance, neither copy of FIR was provided to her nor any action has been taken by them. No service was provided to her for what they have charged for. After searching their website, it could be revealed that the name of the company is Fast Info and its Director is Rajesh Kewat.

10. It further appears that under the banner of one Website, namely, <https://www.onlinelegalindia.com>, the said company has cheated so many persons in the manner as cheated the Opposite Party No. 2. The complainant tried to contact the company further but they did not agree to talk with her and further used slang languages to her. She has been duped by the said company again and for that a Bidhan Nagar Cyber Crime P.S. Case No. 30/23 dated 17.03.2023 under Sections 406/420/120B of the Indian Penal Code, 1860 was started against the Petitioner and two others.

11. During investigation, the Investigating Officer recorded statements of the witnesses under Section 161 of the Code of Criminal Procedure, 1973. Huge numbers of relevant documents, incriminating articles and gadgets were seized. It reveals that prima facie the incident took place with the de-facto complainant.

12. Furthermore, from the perusal of the statements of the de-facto complainant and other witnesses recorded by the Investigation Officer, it reveals that the company and its Director have duped numerous common people. In view of the aforesaid facts that the investigation is under progress and yet to be completed, this Court is of the view that at this initial stage of investigation, it would not be appropriate and proper to quash the proceedings without justified reasons. The Court cannot embark upon an enquiry as to reliability or genuineness or otherwise of the allegation made in the FIR/complaint.

13. The Hon'ble Supreme Court in the case of ***Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and Others***¹ has also laid down the several guidelines to be followed by the Court while exercising its power under Section 482 of the Cr.P.C./or under

¹ (2021) SCC Online SC 315

Article 226 of the Constitution of India out of those guidelines, few 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 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) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;

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;"

14. In the light of above discussions and also in view of the aforesaid guidelines laid down by the Hon'ble Apex Court, this Court is of the opinion that there is no sufficient reason or cogent ground to quash the proceedings initiated against the present Petitioner being Bidhan Nagar Cyber Crime P.S. Case No. 30/23 dated 17.03.2023 under Sections 406/420/120B of the Indian Penal Code, 1860 corresponding to G.R. No. 262 of 2023 pending before the Court of the Learned Additional Chief Judicial Magistrate at Bidhannagar, North 24 Parganas.

15. Consequently, **C.R.R. 1175 of 2023** is, thus, **dismissed**. **CRAN 1 of 2023** and all connected applications, if any, are also, thus, disposed of.

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

17. Interim order, if any, stands vacated.

18. Let a copy of this judgment be sent to the learned Court below for information.

19. Parties shall act on the server copies of this judgment uploaded on the official website of this Court.

20. 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.)