

02-01-2024
Subha
Item no. 41
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 1876 of 2022

Raju Das @ Prodosh Kumar Das
-versus-
M/s. Raja Udyog Pvt. Ltd. and ors.

Mr. Sanjib Kumar Mukhopadhyay
Ms. Prana Roy
Ms. Nargis Parveen

.....for the petitioner.

Mr. Nayan Rakshit
...for the opposite party no.1.

The revisional application has been preferred at the instance of the petitioner challenging the order dated 6th May, 2022 passed in C. Case No. 250 of 2022. The order dated 6th May, 2022 reflects that the learned magistrate on examination of the complainant and its witness under Section 200 of the Cr.P.C on S. A. was of the opinion that the allegations in the complaint and the statement of the complainant do reveal that the accused forced the complainant to sign on blank letter pads and blank cheques and those cheques were given as security. On such finding, the learned court was of the opinion that the contents or the allegations in the complaint were defence which should be put forward at the proper stage of the proceedings under the provisions of Section 138 of the N. I. Act. According to the learned advocate, the continuation of the proceedings which was instituted for allegations under Sections 420/463/464/467/471/474/120B of the Indian Penal Code would

lead to multiplicity of the provisions and wastage of judicial time and as such the learned Magistrate dismissed the complaint under Section 203 of the Code of Criminal Procedure.

Having regard to the findings of the learned Magistrate, I am not in a position to dispute the same as the contents in the complaint and the allegations made therein do make out a defence case which the petitioner would be at liberty to take up after the examination under Section 313 Cr.P.C in connection with C. Case No. 844 of 2019 and the allegations do not constitute an independent cause of action thereby asking the opposite parties herein to face the trial.

Learned advocate for the petitioner relied upon the judgement of the Hon'ble Supreme Court in Criminal Appeal Nos. 1269-1270 of 2021 arising out of *SLP(Criminal) No. 252-253/2020* in the matter of *Sripati Singh(since deceased)through His son Gaurav Singh –versus- The State of Jharkhand and Anr.*

However, the Hon'ble Apex Court in the same judgement in paragraph 22 was pleased to observe as follows:-

“ ... Therefore, though a criminal complaint under Section 420IPC was not sustainable in the facts and circumstances of the instant case, the complaint under Section 138 of the N. I. Act was maintainable and all contentions and the defence were to be considered during the course of the trial”.

Having regard to the settled proposition of law, I do not want to illustrate on the issue which has been canvassed and the only remedy available to the petitioner would be taking up the issue along with the documents in his custody at the appropriate stage of

the trial of the case under the N. I. Act as directed above.

No interference is called for in respect of the order under challenge dated 6th May, 2022.

Accordingly, the revisional application being CRR 1876 of 2022 is dismissed.

The order passed on 6th May, 2022 in C. Case No. 250 of 2022 is hereby affirmed.

Pending applications, if any, are consequently hereby disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]