IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 1799 of 2011

Dr. K.P. Chowdhury & Ors.
-Vs-
The State of West Bengal & Anr.

For the Petitioners	: Mr. Angshuman Chakraborty Mr. Debanik Banerjee Mr. Subhajit Karmakar Mr. Aniruddha Ganguly
For the State	: Mr. Suman De
For the P.F. Authority	: Mr. Anil Gupta
Heard on	: 19.01.2024, 21.02.2024, 12.03.2024, 14.05.2024, 20.09.2024
Judgment on	: 12.12.2024

Ananya Bandyopadhyay, J.:-

1. The instant revisional application has been filed by the petitioner praying for quashing of the proceeding pending before the Court of the Learned Additional Chief Judicial Magistrate, Alipore being Jadavpur P.S. Case No.02/11 dated 01.01.2011 corresponding to B.G.R. No.20/11 under Sections 420/406 of the Indian Penal Code and Section 14 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

2. Petitioner no.1 was the Chairman of the institution named and styled as K.P.C. Medical College & Hospital, Jadavpur situated at 1F, Raja S.C. Mullick Road, Jadavpur, Kolkata – 700032 (hereinafter referred to as the said Hospital), the petitioner no.2 was the Secretary of the said Hospital and the petitioner no.3 was the Assistant Secretary of the said Hospital.
3. Petitioners contended every year, on behalf of the said Hospital, Provident Fund Membership was extended to the eligible employees of the said Hospital as per the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 in the prescribed forms. Any irregularity in complying the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ever occurred was unintentional on the part of the petitioners. During the course of inspection by the squad of enforcement officers headed by the Assistant Provident Fund Commissioner, it was detected by the inspecting team certain irregularities had crept in the conduct of the petitioners towards compliance of the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The said irregularities were brought to the notice of the petitioners by the office of the opposite party no.2 vide its communication dated 13.12.2010 wherein the petitioners were asked to extend the P.F. Membership to all the eligible employees from their date of joining and remit the consequential P.F. and allied dues within two days and also to submit the statutory returns along with receipted copy of payment challan before the Regional P.F. Commissioner within the said stipulated time period with a default clause that in the event the same was not being complied by the petitioners then

legal action will be taken. Vide another letter dated 13.12.2010 the said hospital was asked to submit certain relevant documents to the office of the opposite party no.2.

4. Petitioners further stated that memo no. RNE/WB/48021/CC-V/224 dated 15.12.2010 was issued from the end of the office of the opposite party no.2 to show cause as to why shall they not be prosecuted for violation of the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.
5. Petitioners further stated that soon after the petitioners received the aforesaid communication from the end of the opposite party no.2, the petitioner no.2 being the Secretary of the said Hospital, by her communication being KPMCH/F&A/2010-11/294 dated 18.12.2010 addressed the Regional Provident Fund Commissioner, West Bengal to extend time for payment of the dues from two days to four/five more days to enable her to calculate the non-payroll daily wage earners, and expressed her willingness to clear off the dues as raised by the addressee therein.
6. Petitioners further stated soon after the receipt of the aforesaid communications, vide two separate challans, the dues of the entire amount towards the P.F. contribution of their eligible employees, in two segregated sums, to the tune of Rs.5,87,854/- and Rs.2,36,992/- respectively were deposited at the State Bank of India, Jadavpur University Branch dated 18.12.2010 for the two periods from May 2009 to February 2010 and for the period March 2010 to November 2010 respectively.

7. Thereafter by a further letter dated 20.12.2010 the petitioner duly informed the Regional Provident Fund Commissioner, WB about the clearance of all the dues towards the provident fund contribution of its employees, and also annexed the challans of payment of the said sums.
8. By letters dated 22.12.2010 addressed to the Regional Provident Fund commissioner, WB, on behalf of the said Hospital and the petitioners, one Jayanta Kumar Bhattacharya, duly informed that every monthly return and annual return for the disputed period had been cleared off in accordance with law.
9. Thereafter, before the Learned Additional Chief Judicial Magistrate, Alipore, one Santosh Chakraborty, being the Provident Fund Inspector on behalf of the Opposite party no. 2 filed a complain case under Section 200 of the Code of Criminal Procedure alleging offences punishable under section 14 of The Employees Provident Funds and Miscellaneous Provisions Act, 1952, and the said case had been numbered as Case No. 2536 of 2010.
10. On the self-same facts and on the self-same allegations, Jadavpur Police Station Case No. 02/11 dated 01.01.2011 under sections 420/406 of the Indian Penal Code and Section 14 of The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 corresponding to B.GR No. 20/11 was initiated against the present petitioners on the basis of a written complaint filed before the Officer-in-Charge, Jadavpur Police Station by the same person at whose behest Case No. 2536 of 2010 was started, namely one Santosh Chakraborty wherein it was inter alia alleged as follows:-

> *"On 13.12.2010 the squad of Enforcement Officers headed by the Assistant Provident Fund Commissioner, visited the said Hospital for verification of compliance position under The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and that as per the provisions of the said Act, the employer is to deduct Provident Fund contribution from the salary/wages of the eligible workers and deposit the same along with the employers share before the statutory fund within a stipulated time frame. However on inspection of records, the squad has informed that the management has failed to extend P.F. Benefit as per The Employees' Provident Funds and Miscellaneous Provisions Act, 1952."*

11. Subsequently the petitioner no.2 surrendered before the Learned Court below and prayed for bail when her prayer for bail was allowed and she was enlarged on bail.

12. Subsequently, on completion of investigation charge-sheet was submitted against three accused persons, being the petitioners herein under Sections 420/406 of the Indian Penal Code and Section 14 of The Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

13. Learned Advocate for the petitioners submitted that :–

    i. The impugned proceeding has been based on cryptic materials on record, jabbed allegations, harassive intent and mala-fide contents and hence was liable to be quashed.

    ii. Since the settled principle of law was that keeping the allegations in its entirety, if it's found that no offence has been made out, then this Hon'ble has got the inherent powers to interfere in the matter and quash the same to prevent abuse of process of court as well of law, and here in this case even taking the allegations as leveled in the compliant in to, no offence against the petitioners against the petitioners have been made out and hence the pendency of the impugned proceedings will be an abuse of process of law and hence the same is liable to be quashed for the ends of justice.

iii. On the selfsame cause of action and on the selfsame allegations, the selfsame complainant chose to file an application under section 200 of the Code of Criminal Procedure against the petitioners and the same is pending adjudication, then the continuance of the instant proceeding will be sheer abuse of process of court and the same is liable to be quashed.

iv. Since the petitioners have already paid off all the dues so pointed out by the opposite party in its inspection much before the initiation of the proceedings, hence the instant proceedings was bad in law and harassive in nature and will lead to abuse of process of court as well of law, and hence is liable to be quashed.

14. Learned Advocate for the petitioners submitted as follows: –

i. The petitioners every year, on behalf of the said Hospital, used to extend the Provident Fund Membership to all the eligible employees of the said Hospital as per the provisions of The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 in the prescribed forms and before the concerned authority.

ii. When during the course of inspection by the squad of enforcement officers headed by the Assistant Provident Fund Commissioner, it was detected by the inspecting team that some irregularities have crept in the conduct of the petitioners towards compliance of the provisions of The Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the said irregularities were brought to the notice of the petitioners opposite party by no. the 2 office herein of vide the its communication dated 13.12.2010 wherein the petitioners Membership were to asked to extend the P.F. all the eligible employees from their date of joining and remit the consequential P.F. and allied dues within two days and also to submit the statutory returns along with receipted copy of payment challan before the Regional P.F. Commissioner within the said stipulated time period with a default clause that in the event the same was not being complied by the petitioners then legal action will be taken. Vide another letter dated 13.12.2010 the said hospital was asked to submit certain relevant documents to the office of the opposite party no.2.

iii. Vide memo no.RNE/WB/48021/CC-V/224 dated 15.12.2010, petitioner was issued a show cause notice from the end of the office of the opposite party no.2 to show cause as to why shall they not be prosecuted for violation of the provisions of The Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

iv. Soon after the petitioners received the aforesaid communication from the end of the opposite party no. 2 herein, the petitioner no. the Secretary 2 being Hospital, by her KPMCH/F&A/2010-11/294 of the said communication dated being 18.12.2010 addressed top the

Regional Provident Fund Commissioner, West Bengal to extend the time for payment of the dues from two days to four/five calculate more the days to enable non-payroll her daily to wage earners, and expressed her will to clear off the dues as raised by the addressee therein.

v. Soon after the receipt of the aforesaid communications, vide two separate challans, paid the dues of the entire amount towards the contribution PF of their employees, in two segregated sums, eligible to the tune of Rs.5,87,854/- and Rs.2,36,992/- respectively with the State Bank of India, Jadavpur University Branch dated 18.12.2010 for the two periods from May 2009 to February 2010 and for the period March 2010 to November 2010 respectively. The Challans were annexed to the petition.

vi. By a further letter dated 20.12.2010 the petitioner duly informed the Regional Provident Fund Commissioner, W.B. about the clearance of all towards the provident fund contribution of its employees, and also annexed the challans of payment of the said sums and by letters dated 22.12.2010 addressed to the Regional Provident Fund Commissioner, WB, on behalf of the said Hospital and thus in turn on behalf of the petitioners, one Jayanta Kumar Bhattacharya, duly informed that monthly return and annual return for the disputed period has been cleared off in accordance with law.

vii. Before the Learned Additional Chief Judicial Magistrate, Alipore, one Santosh Chakraborty, being the Provident Fund Inspector on behalf of the opposite party no. 2 made a complain case under section 200 of the Code of Criminal Procedure alleging offences punishable under Section 14 of The Employees' Provident Funds and Miscellaneous Provisions Act, 1952, and the said case has been numbered as C Case No. 2536 of 2010. The petitioners later received summons to appear before the Learned Court below and the same is pending adjudication before the Learned 9th Judicial Magistrate, Alipore.

viii. From the above set of affairs, it is crystal clear that when the FIR was registered, there was no persisting offence as on that date itself there were no dues and the entire dues were cleared much prior to the initiation of the FIR and hence the judgement of *Kamala Tea Co. Ltd. and Ors., Supra*, as referred to by the opposite party has no manner of application to the facts and circumstances of the instant case since, in Kamala Tea Co Ltd, after the FIR was the dues were initiated, this case when the FIR was cleared and here in started there were no dues persisting, when the hospital authorities were informed about the non-payment of the dues for few months, the then moment the hospital authorities paid the dues and communicated the challans to the opposite party.

ix. The opposite party has also filed a complaint case on the self-same allegations and hence the two separate proceedings on the same set of allegations cannot continue simultaneously.

x. The petitioners were the Chairman and Secretary of the institution and does not fall under the term and purview of "Employer" and they cannot be said to be the employers of the establishment which has also been held on a plethora of decisions by the Hon'ble Apex Court as well by This Hon'ble Court.

xi. Since the entire dues had already been cleared, and on the date of registration of FIR there were no dues, hence continuation of the proceedings will be an abuse of process of court as well of law, and this had also been held on a number of occasions by The Hon'ble Apex Court and This Hon'ble Court.

15. Learned Advocate for the Opposite Party No.2 submitted as follows:–

i. Payment of employee's share of Provident Fund contribution was governed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Section 6 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 casts a liability upon the employer to pay to the Provident Fund Authority, the employers and employees share of Provident Fund contribution at the rate prescribed therein while para 38 of the Employees' Provident Fund Scheme, 1952 prescribed the mode of payment of contribution. Section 14 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 provides for penalty in case of any contravention or default in complying with the provisions of section 6 of that Act while Section 14A fasten liability on certain persons if the person committing the offence is a establishment. Para 76 of the Employees' Provident Fund Scheme also fastens criminal offence for non-compliance of the provisions of the Schemes on the person in charge of and responsible for the management or control of the establishment.

ii. Para 36A of the Employees Provident Fund scheme, 1952 mandates the employer to furnish the particulars of ownership to the Regional Commissioner in Form No. 5A in relation to a factory or establishment to which the Act applies with regard to the branches of the department, owners, occupiers, directors, partners, managers or other person or persons who have ultimate control over the affairs such factory or establishment. It appear that in Form 5A, submitted on behalf of the establishment in question namely KPC Medical College & Hospital, Jadavpur the name of the petitioners appear as person in charge of, and responsible for, the conduct of business of the establishment. In the complaint it was specifically stated that the petitioners were the employer and person responsible for the conduct of the business of the establishment for the aforesaid period.

iii. The instant proceeding was initiated against the petitioners for the offence of breach of trust under the Indian Penal Code for default in payment of contribution by the employer. The offences under Sections 420/406 of the Indian Penal Code are cognizable. Similarly, an offence relating to default in payment of contribution by the employer punishable under of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 are cognizable. So, there is absolutely no difference between the special law and the general law with regard to the cognizability of the offence is concerned. However, in respect of the offences under the Employees Provident Fund and Miscellaneous Provisions Act, 1952, no cognizance can be taken except on a report in writing of the facts constituting such offence by an inspector with previous sanction from the authorities concerned but in respect of the offence under Section 420/406 Indian Penal Code there was no such obligation to comply with the said requirement. Therefore, prosecution had an option to proceed against the offenders under either of the enactments. In the instant case prosecution had chosen to proceed against the petitioners under the Indian Penal Code for criminal breach of contract for failure to deposit the employees' share of Provident Fund contribution, though deducted, to the Provident Fund Authority.

iv. It was pertinent of mention that the instant case related to non-deposit of employees share of provident fund dues with the Provident Fund Authority, though deducted. Under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 a duty has been cast upon the 'employer' to pay the employee's share of contribution and in case of failure to do so penalty has been provided therein. In the instant case, employee's share of Provident Fund contribution was already deducted but not deposited to the Provident Fund Authority. In this regard Explanation 1 to section 405 of the Indian Penal Code is very specific. Explanation 1 clearly speaks that an employer of an establishment who deducts the employee's contribution from the wages payable to the employee for credit to a Provident Fund shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said law, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid. Thus, it is apparent that Explanation 1 refers to the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and payment of employees’ share of Provident Fund contribution under that Act.

v. Section 2(e) of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 defines “employer” which means in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948, the person so named and in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent. So, the employer means, in relation to an establishment which is a factory, the owner or occupier of the factory and where a person has been named as a manager of the factory, the person so named and in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent.

vi. Though it was submitted that the Hon'ble Supreme Court in *Srikanta Datta Narasimharaja Wodiyar v. Enforcement Mysore* reported in AIR 1993 SC 1656 held that a director of a private company, who was neither an occupier nor a manager could be prosecuted under S. 14-A of the Employees' Provident Fund and Miscellaneous Provident Act, 1952 for violation of the Provident Fund Scheme when in Form 5A, Columns 8 and 11 the Director has declared himself as one of the persons in charge of and responsible for conduct of the business of the establishment or the factory.

vii. It was further submitted that the Hon'ble Supreme Court in *Bhagirath Kanoria and Ors v. State of M.P.* reported in *(1984) 4 SCC 222* held that considering the object and purpose of the Act, which is to ensure welfare of workers, the offence of non-payment of the employers' contribution before the due date must be regarded as a continuing one to which Section 472 and not Section 468 of Cr.P.C. must apply. It would be putting an incredible premium on lack of concern for the welfare of workers if the employers who have not paid their contribution or the contribution of the employees to the Provident Fund are allowed to successfully evade the penal consequences of their act by pleading the law of limitation. The employers are liable to pay their contribution to the Provident Fund before the due date and if they pay their contribution to the Provident Fund before the due date and if they pay it after expiry of the due date, that would not absolve them of their original guilt but that would snap the recurrence of the offence. Each day that they failed to comply with obligations to pay their contribution, they would commit a fresh offence.

viii. It was submitted that the Division Bench of the Hon'ble Calcutta High Court in Appeal No. of 1993; Matter No. 97 of 1993 (*M/s. Universal Heavy Mechanical Lifting Enterprises & Anr. -vs- Union of India & Ors.*) held that under Section 14 (1-A) of the Act any person who commits, default in complying with the provisions of section 6 or Clause (a) of sub-section (3) of Section 17 or paragraph 38 of the Scheme, was liable to be punished the amount realized by the appellants along with their own contribution had to be deposited by the appellants Section 6 of the aforesaid Act and they having not paid the amounts within the stipulated time, the offence stands committed and any subsequent do would not cause a waiver of the prosecution. That apart, by virtue of the amendment brought in the Statute, non- payment of the employees' share of contribution amounts to criminal in appropriation within the meaning of the Penal Statute and temporary misappropriation be also criminal misappropriation within the meaning of law. Subsequent payments even though accepted by the Provident Fund Commissioner will not constitute condonation of the offence itself; but then if the trial court ultimately finds that the amount of contribution which was due and on account of which prosecution has been launched, has been paid before lodging of the prosecution or even immediately thereafter, the trial court may pass minimum sentence in accordance with law, under the proviso to Section 14(1A) of the Act the Court may, for adequate and special reasons to be recorded in the judgment, impose sentence of imprisonment for a lesser term as has been indicated in the statue itself and the powers of the Trial Court are obviously not fettered in this particular prescription.

ix. It was further submitted that this Hon'ble High Court in *Anjuman Tea Company Pvt. Ltd. & Ors. -vs- The State of West Bengal & Ors.* reported in *2008 (1) CHN 1061* held that default in deposit of provident fund contribution, subsequent deposit, does not absolve the accused persons of the liability of the criminal offence. Subsequent deposit of PF contribution cannot be a ground for quashing the criminal proceeding.

x. It was further submitted that this Hon'ble High Court in *Debidas Dutta v. The State of West Bengal* reported in *2006 (1) CLJ (cal) 593* and *Kamala Tea Co. Ltd. & Ors. v. The State of West Bengal & Anr.* reported in *2007 (2) CLJ (Cal) 124* held that in similar facts and circumstances rejected the accused persons prayer for quashing on the ground of subsequent payment, directed that in the event the said accused are found to be guilty such subsequent payment shall be taken into consideration in deciding the question of sentence.

xi. It was further submitted that this Hon'ble High Court in *Ajay Jalan & Ors. -vs- The State of West Bengal & Anr.* reported in *2018 SCC OnLine Cal 1367* held in para 21 that:

> *"Admittedly, the company in question was not impleaded as an accused in the instant case. I find no reason to differ with the conclusion arrived at by this court in Sajjan Kumar Jhunjhunwala (Supra) that non-inclusion of the company does not affect the case in anyway."*

The aforesaid criminal revisional application was dismissed by passing judgment and order dated 27.04.2018.

xii. It was submitted that the aforesaid judgment and order dated 27.04.2018 was challenged before the Hon'ble Supreme Court in SLP (Criminal) Diary No. 29232 of 2018 (*Ajay Jalan & Ors. -vs- The State of West Bengal & Ors.*) vide order dated 24.08.2018 the Hon'ble Supreme Court was pleased to dismiss the SLP by passing an order. A gist of the said order is quoted hereunder:

> *"Delay condoned. We see no reason to interfere in the impugned order passed by the High Court. The special leave petition is dismissed. We, however, give liberty to the petitioners to raise all such issues at the stage when the trial Court would consider the matter for framing of charge/discharge. As a sequel to the above, pending applications, if any, shall also stand disposed of."*

xiii. It was submitted that the petitioner has relied upon an order dated 06.05.1992 passed by the Hon'ble Supreme Court of India in *Adoni Cotton Mills Ltd. & Ors. -vs- Regional Provident Fund Commissioner & Ors.* reported in *1995 Supp (4) SCC 580*, the said order is not a judgment at all and it is not applicable in the instant case. Firstly, the company involved in the said order was taken over by the Government under the Textile Undertaking Nationalization Ordinance which was replaced by the Sick Textile Undertaking Nationalization Act, 1974. Secondly, two appellants had already died as well as prosecution was initiated after 15 years and thirdly, the Hon'ble Supreme Court did not taken into account the above-mentioned two landmark judgments namely, *Srikanta Datta Narasimharaja Wodiyar v. Enforcement Mysore* reported in *AIR 1993 SC 1656* and *Bhagirath Kanoria and Ors v. State of M.P.* reported in *(1984) 4 SCC 222*. Lastly, the Hon'ble Supreme Court did not go into the merits of the case. As such, the aforesaid order namely, *Adoni Cotton Mills Ltd. & Ors. -vs- Regional Provident Fund Commissioner* is not applicable in the instant case.

xiv. It further submitted that second judgment *Employees' State Insurance Corporation -vs- S. K. Aggarwal & Ors.* reported in *(1998) 6 SCC 288* is not applicable in this case, as because the said judgment is related to ESI Act and not with regard to Employees' Provident Fund Act, 1952.

xv. The third and fourth judgments were single bench judgment of this Hon'ble High Court and as such, also not applicable and not a reasoned and speaking order.

xvi. It was submitted that the opposite party no. 2 has relied upon two Hon'ble Supreme Court Judgment namely, Srikanta Datta Narasimharaja Wodiyar v. Enforcement Mysore and Bhagirath Kanoria and Ors v. State of M.P. along with Hon'ble Division Bench

Judgment namely *M/s. Universal Heavy Mechanical Lifting Enterprises & Anr. -vs- Union of India & Ors.* and other judgments including Judgment passed by this Hon'ble High Court namely *Ajay Jalan & Ors. -vs- The State of West Bengal* & Anr., which was upheld by the Hon'ble Supreme Court of India. As such, it was submitted that the all the judgements and orders cited by the petitioner are not applicable in the instant case.

16. Section 2(e) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 defines the employer as :-

> *"**2. Definitions. -** (e) "employer" means—*
>
> *(i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; and*
>
> *(ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent;]"*

17. The petitioner no. 1 who was the Chairman of the K.P.C. Medical College and Hospital has expired on 07.10.2022. The petitioner no. 2 was the Secretary of the aforesaid hospital and petitioner no. 3 was the Assistant Secretary of the hospital. Both petitioner no. 2 and petitioner no. 3 did not fall within the definition of "employer" to bear the liability to deposit the provident fund contribution.

18. Petitioner no. 2 and petitioner no. 3 by virtue of their official position could not have been in ultimate control over the affairs of the establishment. Accordingly, the proceedings against the petitioner no. 2 and petitioner no. 3 should be quashed.
19. The proceedings with regard to petitioner no. 1 has become infructuous on the event of his death.
20. In view of the above discussions, the proceedings being Jadavpur Police Station Case No. 02/11 dated 01.01.2011 under Sections 420/406 of the Indian Penal Code and Section 14 of The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 corresponding to B.G.R. No. 20/11, pending before the Learned Additional Chief Judicial Magistrate, Alipore and the charge-sheet in connection with the above proceedings is quashed.
21. Under such facts and circumstances, the instant criminal revisional application being CRR 1799 of 2011 is allowed.
22. Accordingly, CRR 1799 of 2011 is disposed of. Connected application, if any, also stands disposed of.
23. There is no order as to costs.
24. Case Diary, if any, to be returned forthwith.
25. Let the copy of this judgment be sent to the Learned Trial Court as well as the police station concerned for necessary information and compliance.
26. All parties shall act on the server copy of this judgment duly downloaded from the official website of this court.

(Ananya Bandyopadhyay, J.)