

17.05.2024

Item No.60
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 2039 of 2024

In the matter of : **Asis Aich**

... Petitioner.

Mr. Malay Dhar,
Mr. Biswajit Sarkar,
Mr. S. Datta

... For the Petitioner.

Petitioner has prayed for quashing of the proceedings under Section 25 of the Payment and Settlement Systems Act, 2007 read with Section 142 of the Negotiable Instruments Act relating to Complaint Case No. C/3445/2023 which is pending before learned Judicial Magistrate, Bidhannagar, North 24-Parganas.

Learned advocate appearing for the petitioner submits that the petitioner did not apply for loan and by way of cyber offence, a loan was shown in his account and there were debit withdrawals constantly on the same date. To that effect, the petitioner informed the police station and investigation of the said case being Belghoria Police Station Case No. 426 dated 03.09.2023 has been registered for investigation and the same is continuing till date. As a result of such criminal case being instituted at the high handed activities of the offenders who in all probability, according to the petitioner, are bank officials instituted the present case in respect of a separate ECS instruction which has been given to the bank. The present case, according to the petitioner, as such is an abuse of process of the court and is liable to be quashed.

The issues which have been canvassed by the petitioner are question of facts which require deliberation in course of

the trial. There is a probability of the petitioner having suffered, but the documentary and the electronic evidence to that extent must be by way of the procedure established by law. This Court in a summary manner cannot decide as to whether the complainant is correct or the accused as a victim has suffered. Consequently, I direct that the petitioner would at the appropriate stage canvass such points before the learned trial court being the learned Judicial Magistrate, Bidhannagar, North 24-Parganas. The learned trial court would take into account the evidence which has been relied upon particularly with regard to the bank statement, the nature and manner of withdrawal from the bank, the FIR and if subsequently the police authorities come to conclusion by way of filing a report under Section 173 of the Code of Criminal Procedure.

With the aforesaid observations, the revisional application being CRR 2039 of 2024 is disposed of.

Pending connected application, if any, is consequently disposed of.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)