

08-08-2024
ct no. 32
Sl. 10
sp

C.R.R. 2927 of 2022

With

CRAN 6 of 2024

Jai Bardhan

-Versus-

The State of West Bengal & Anr.

Mr. Avirup Mondal,
Ms. Ahana Ghosh Mondal

..for the petitioner

1. Affidavit of service filed on behalf the petitioner is taken on record.
2. In spite of service, no one appears on behalf of the de facto complainant/opposite party no. 2.
3. No accommodation is sought for at the time of call.
4. By filing this revisional application under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973, the petitioner herein has prayed for quashing of the complaint case being Complaint Case No. 2274 of 2021 under Sections 323/406/420 of the Indian Penal Code pending before the Court of the learned Additional Chief Judicial Magistrate, Barasat, North 24 Parganas.
5. The essential facts of the instant case are as follows:

The de facto complainant booked a SIEMENS (refurbished) EMOTION SINGLE SLICE CT SCANNER MACHINE for a total consideration of Rs. 28,00,000/- which is inclusive of GST @ 12% amounting to Rs.

3,00,000/- . Out of the said total amount, the de facto complainant made a part payment to the tune of Rs. 16,00,000/- to the company, Edge Medical Solutions Pvt. Ltd through the CEO, the accused petitioner herein.

6. It is further alleged that in spite of payment of Rs. 16,00,000/-, the accused persons failed to supply the machine to the complainant. Despite several requests and assurance given by the company that they will deliver the machine within 15 days but failed. Subsequently, the accused persons have delivered the said machine to the complainant but same was defective and non-functioning. The complainant did not install nor rectify or replace the same as such a complaint has been filed by the complainant before the Learned court below under Section 200 of the CrPC. On the basis of the said court complaint and examining of the witness, the learned Additional Chief Judicial Magistrate, Barasat, North 24 Parganas took cognizance against the petitioners and issued summons against them.
7. After receiving summon, the present petitioner appeared before the learned Court below and obtained bail. It is the contention of the petitioner that the petitioner is no way connected with the company in any capacity. He never received such amount. The question of involvement in the instant case does not arise. It is further contended that the petitioner has been falsely

implicated into the case without any involvement. Petitioner has filed the master data of the said company along with original application to show the petitioner is no way connected with the company. Finally, he prays for quashing of the said proceeding as the proceeding if continued then it would be a sheer abuse of process of law. As such, the petitioner approached before this Court seeking aforesaid relief.

8. Learned counsel appearing on behalf of the petitioner submits that the present petitioner is totally innocent and he is no way connected with the instant case since he has no role to play in the company in any capacity. However, he has been implicated in the instant case falsely. Petitioner also shown the master data of the company wherefrom it appears that Mr. Prakash Vardhan was a director/signatory of the company from 23rd April, 2018 to 5th July, 2019. Petitioner is neither a director nor signatory or CEO of the said company.
9. It is further submitted that the case of the de facto complainant with regards to the supply of the defective machine, which amount to civil disputes but the defecto complainant tried to convert it into the criminal case though it is not permissible in law. At best the complainant can seek his grievances before the consumer forum. As such, the instant case liable to be quashed to secure ends of justice.

10. Heard the learned counsel and on perusal of the documents appended with the application, this Court finds from the master data of the company that he is no way connected with the company. He is neither a director nor signatory or CEO of the company, namely, Edge Medical Solutions Pvt. Ltd. The allegation of the complainant is with regards to a defect machine was supplied and the same was not replaced by other workable machine, i.e., SIEMENS (refurbished) EMOTION SINGLE SLICE CT SCANNER MACHINE nor the machine was returned. Disputes regarding supply of defective machine or part payment of 16,00,000/= out of Rs. 28,00,000= for the said machine does not fall within the criminal act. Moreover, there is no ingredient found against the offence punishable under Sections 323/406/420 of the Indian Penal Code. No cognizable offence disclosed against the Petitioner. Furthermore, from the perusal of the entire complaint, this Court does not find any sufficient material with regards to the allegation punishable under Section 323/406/420 of the Indian Penal Code.
11. In view of the above facts, categories as stipulated in Sl. No. 1 and 6 in ***Bhajanlal Case (supra)***¹ in paragraph 102 of the Hon'ble Supreme Court Judgment are squarely applicable in the instant case. Accordingly, the case of the petitioner has merit to interfere with the proceeding. The High Court is not powerless to utilize

¹ AIR 1992 SC 604, 1992 Supp (1) Supreme Court Cases 335

the inherent jurisdiction to quash the proceedings under Section 482 of the CrPC. Accordingly, the instant revisional application is, thus, allowed. Connected application, if any, is also, thus disposed of.

12. In the light of the above observations, complaint case being Complaint Case No. 2274 of 2021 under Sections 323/406/420 of the Indian Penal Code pending before the Court of the learned Additional Chief Judicial Magistrate, Barasat, North 24, parganas stands quashed in respect petitioner. The orders passed in the said proceeding by the Court below are also set aside.
13. Let a copy of this order be communicated to the learned Court below for information.
14. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Ajay Kumar Gupta, J.)