

D/L48
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C.R.R.2747 of 2023

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973;

Swati Kathotia
Versus
State of West Bengal and another

Ms. Anju Manot.
...for the petitioner.

Mr. Debabrata Roy
Mr. Kallol Mondal
Mr. Sajol Kanti Bhattacharyya
Ms. Sarbani Mukhopadjhyay
Mr. Sarthak Burman
Mr. Vivek Paswan
Mr. R.W. Khandelwal.
...for the opposite party no.2.

Mr. Anwar Hossain.
...for the State.

Petitioner has challenged the proceedings being CN 527 of 2023 which is pending before the learned Metropolitan Magistrate, 13th Court, Calcutta.

Learned advocate Ms. Anju Manot appearing on behalf of the petitioner submits that the present petitioner has been implicated in the instant case in respect of a transaction which took place in the year 2007. Learned advocate also submits that during the relevant period of time the petitioner was not married to the accused no.3 in the petition of complaint, namely Varun Kathotia. However she has been asked to face ordeal of criminal trial. Learned advocate has also taken this Court through the allegations made in the petition of complaint in respect of accused no.1 which is Fort

Projects Private Limited and accused nos.2 and 3 who made representation on behalf of the accused no.1-company. However, it has been emphatically stated that no accusation are surfacing so far as the present petitioner, namely, Swati Kathotia is concerned, who has been referred to as the accused no.5. in the petition of complaint.

Mr. Roy and Mr. Mondal, learned advocates appearing for the complainant/opposite party resisted the submissions of Ms. Manot, learned advocate appearing on behalf of the petitioner and submitted that the present is a case under Sections 406/420/120B of the Indian Penal Code and the issue relating to conspiracy will continue in cases of criminal breach of trust and cheating.

I have considered the submissions restricted to the present petitioner and I find that in the petition of complaint the nature of the allegations which is appearing in paragraph 6 do not reflect any participation of the present petitioner while commercial transaction took place either at the time of disbursement of amount or relating to the allegations of repayment.

Having considered that the petition of complaint is wanting materials so far as the present petitioner is concerned, without going into the submissions advanced by the present petitioner, I am of the view that further continuance of the proceedings so far as the present petitioner, namely, Swati Kathotia is concerned, the same should not be allowed to be continued.

Accordingly, all further proceedings relating to the present petitioner, namely Swati Kathotia in CN 527 of 2023

pending before the learned Metropolitan Magistrate, 13th Court, Calcutta is hereby quashed. So far as the other accused are concerned, learned Metropolitan Magistrate, 13th Court, Calcutta will proceed in accordance with law.

Accordingly, CRR 2747 of 2023 is allowed.

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

All 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 of all requisite formalities.

(Tirthankar Ghosh, J.)