

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 3642 of 2011

**Hiranmoy Chattopadhyaya @ Hiran Chatterjee
-Vs-
The State of West Bengal and Anr.**

For the Petitioner : Mr. Avik Ghatak
Mr. Saibal Krishna Dasgupta

For the Opposite Party No.2 : Mr. Amit Bikram Mahata

Heard on : 08.03.2024, 20.03.2024, 26.06.2024

Judgment on : 24.09.2024

Ananya Bandyopadhyay, J.:-

1. The instant revisional application has been filed by the petitioner praying for quashing of the proceedings and/or the F.I.R. lodged against the petitioner by the de-facto complainant pending before the Learned Judicial Magistrate, 2nd Court, Siliguri being C.R. Case No.450 of 2011 dated 20.07.2011 under Sections 420/406 of the Indian Penal Code.
2. Petitioner had been involved in that criminal case being C.R. Case No.450 of 2011 which was initiated on a complaint filed by Sri Bishnu Paul Chowdhury, Secretary Pukurtala Yubak Brinda Club under Sections

420/406 of the Indian Penal Code pending before the Judicial Magistrate, 2nd Court, Siliguri which precisely stated as follows:-

- a) The complainant was a club registered under society act which was established in the year of 1950 and had been organizing different activities for the general people including philanthropic events.
- b) The complainant decided to organize a T-20 Friendly Cricket Match/Tournament under the name and style of “Bollywood vs Tollywood” involving actors and actresses of Bollywood and Tollywood, proposed to be held at Kanchanjanga Stadium, Siliguri on 20th February, 2011 and the complainant club decided to organize the same with the co-operation of Siliguri Mahakuma Krira Parishad.
- c) The complainant club contacted the accused persons no.2, 3 and 4 requesting them to participate in said cricket match as Tollywood Actors and Actresses and to play cricket on 20.02.2011 at Siliguri who advised the complainant club to contact one Satyajit Chakroborty who generally organized cultural programs with film stars, singers from Mumbai, Kolkata and Bangladesh.
- d) Subsequently, the complainant club contacted said Satyajit Chakroborty inter alia mentioning the names of the accused to ensure the presence for participation in the T-20 cricket match.
- e) Satyajit Chakroborty agreed to the aforesaid proposal of participation in the said cricket match claiming a sum of Rs.10,10,000/- to be paid to the accused no.2, 3, 4 and others. Satyajit Chakroborty received a

sum of Rs.2,00,000/- out of Rs.10,00,000/- from the complainant club on 11.01.2011 at Kolkata.

- f) Thereafter the complainant club paid a further sum of Rs.4,85,000/-to Satyajit Chakraborty within 16.02.2011.
- g) The accused no.1 Jishu Sengupta had given consent by issuing a consent letter and agreed to participate in the cricket match, the accused no.2 Sri Kanchan Mullick had also given consent to participate in the said Cricket Match, the accused no 3 had also given consent on 12.01.2011 mentioning in the letter issued by the complainant club dated 03.01.2011 that "*I agreed to participate*" the accused no.4 has also given consent mentioning she also agreed to participate and all the accused persons agreed that they would participate and play cricket match at Siliguri on 20.02.2011.
- h) The above named accused persons sent video Recording/Footage to telecast the same amongst the general people that they would participate in the said cricket Match and to perform as cricket players and the same had been published by the C.C.N. Siliguri.
- i) On 20.02.2011, the above named accused persons did not arrive at Siliguri and participate for which the complainant club and its members were humiliated by the audience and the complainant's club also suffered financial loss.
- j) After the said tournament, the complainant contacted Satyajit Chakraborty who agreed to return the balance amount i.e., sum of

Rs.3,00,000/- after deducting certain amount and accordingly issued three cheques amounting of Rs.1,00,000/- each in favour of the complainant.

- k) The accused persons induced the complainant with dishonest intention to contact Satyajit Chakraborty and to deposit the amount with an assurance that they would participate in the said cricket tournament but subsequently retracted to the detriment of the complainant club.
 - l) The accused persons dishonestly induced the complainant to deliver/pay the amount to Satyajit Chakraborty and subsequently the accused persons received part of the said amount from Satyajit Chakraborty and from the conduct of the accused persons, it was clear that from very beginning there was an intention of the accused persons to cheat the complainant.
- 3. Considered the submissions of the Learned Advocates representing both the parties.
 - 4. The dispute between the parties is civil in nature concerning non-performance of a contract devoid of the components to constitute an offence under Section 420/406 of the Indian Penal Code. Mere non-performance of a civil contract does not enure either the offence of cheating or criminal breach of trust. The element of inducing the party with the intent to defraud the same from the inception is absent.
 - 5. To allow, to continue with the trial of the instant case will result into an

abuse of the process of law.

6. In view of the above discussions, the proceedings and/or the F.I.R. lodged against the petitioner by the de-facto complainant pending before the Learned Judicial Magistrate, 2nd Court, Siliguri being C.R. Case No.450 of 2011 dated 20.07.2011 under Sections 420/406 of the Indian Penal Code is quashed.
7. Under such circumstances, the instant criminal revisional application being CRR 3642 of 2011 is allowed.
8. Accordingly, CRR 3642 of 2011 is disposed of. Connected application, if there be any, also stands disposed of.
9. There is no order as to costs.
10. 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.
11. All parties shall act on the server copy of this judgment duly downloaded from the official website of this court.

(Ananya Bandyopadhyay, J.)