

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

**CRR 3684 of 2023
IA No. CRAN 1 of 2023
(Assigned)
Tarun Banerjee
Vs.
The State of West Bengal & Anr.**

For the petitioner	:Mr. Sudipta Moitra, Sr. Adv. Mr. Vijay Verma. Adv. Mr. Dwaipayan Biswas, Adv.
For the State	:Mr. Debasish Roy, Adv. Mr. Rudradipta Nandy, Ld. APP.
For the opposite party no. 2/de facto complainant	: Mr. A.K. Gayen, Adv.
Heard On :	:24.11.2023,18.12.2023, 22.01.2024, 01.02.2024, 13.03.2023, 10.05.2024, 13.06.2024, 20.06.2024, 27.06.2024
Judgment On :	:12.08.2024

Bibhas Ranjan De, J. :

1. The instant criminal revision application has been filed with a prayer for quashment of the proceedings in connection with Berhampur Police Station Case No. 1584 of 2018 dated 27.12.2018 and subsequently filed Charge sheet being no. 1073 of 2021 under Sections 420/465/467/468/506/34 of the Indian Penal Code (hereinafter referred to as IPC) corresponding to G.R. Case No. 5182 of 2018 presently pending before the Court of Ld. Chief Judicial Magistrate (for short CJM), Berhampur, Murshidabad.

Brief facts:-

2. The impugned proceeding was put into motion via written complaint made by the opposite party no. 2 herein on 27.12.2018 with the Berhampur Police Station to the effect that on 10.08.2009 one Jayanta Bajpayee introduced him to the petitioner herein who claimed himself to be the Secretary of Krishi Bikash Shilpa Kendra (for short KBSK). Later he was also introduced to one Subhasis Nag at Hotel White House, Berhampur, Murshidabad. The opposite party no. 2 herein alleged that many documents in the name of the Government of India were manufactured by the alleged persons claiming

that they were permitted by the Government of India to absorb the unemployed people which made the opposite party no. 2 believe that the alleged persons will be able to accommodate unemployed people with proper jobs. Upon receipt of this frivolous assurance, the opposite party no. 2 herein from 2010 to 2016 collected about Rs. 2.65 crores from 450 unemployed people approximately and handed over the said amount to the alleged persons in regular intervals at the said Hotel. But, till date the accused neither gave anyone any job in their organization nor did they refund the money collected. After realizing that he has been cheated by the accused, the opposite party no. 2 filed the written complaint which gave rise to Berhampur Police Station Case No. 1584 of 2018.

- 3.** On receipt of the said complaint investigation was conducted by the Berhampur Police Station and subsequently charge sheet being no. 1073 of 2021 was submitted under Sections 420/465/467/468/506/34 of the IPC against the three (3) accused persons including the petitioner.
- 4.** Being aggrieved by and dissatisfied with the impugned proceeding the petitioner has preferred this application

invoking Section 401 read with Section 482 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C.).

Arguments Advanced:-

5. Ld. Sr. Counsel, Mr. Sudipta Moitra, appearing on behalf of the petitioner has mainly canvassed his argument on the ground that the period of alleged offence ranges from 2009 to 2016 but the FIR was lodged only in the year 2018. Furthermore, the FIR was not lodged by any person alleged to have deposited money in exchange of any job assurance.
6. Mr. Moitra has further contended that the charge sheet reveals that only 11 independent persons were cited as witnesses and from their statements by no means it can be transpired that those persons have paid any money. So, it can only, at best, be considered as vague allegation which has no legs to stand.
7. Before parting with, Mr. Moitra has added that both the parties have amicably settled the dispute and the opposite party no. 2 has no intention to proceed with the matter any further. Therefore, no useful purpose would be served by keeping the said proceedings pending any further.
8. In support of his contention, Mr. Moitra has taken assistance of a few cases which are as follows:-

- ***N.S. Madhanagopal & Anr. Vs. K. Lalitha reported in 2023 (1) AICLR 140 (S.C.)***
 - ***J. Th. Zwart & Ors vs. Indrani Mukherjee reported in 1989 SCC OnLine Cal 289***
 - ***Arulvelu & Anr. Vs. State & Anr. reported in 2010 CRI.L.J. 433***
 - ***Sujit Biswas vs. State of Assam reported in 2013 CRI.L. J. 3140***
 - ***Neelu Chopra & Anr. vs. Bharti reported in (2010) 1 C Cr LR (SC) 256***
 - ***Lalita Kumari vs. Government of Uttar Pradesh and others reported in (2014) 2 Supreme Court Cases 1***
 - ***Kishan Singh (Dead) through Lrs. vs. Gurpal Singh and others reported in (2010) 8 Supreme Court Cases 775.***
 - ***Deepak Kumar Shrivastava & Anr. Vs State of Chhattisgarh & Ors. reported in 2024 (3) SCC 601.***
9. Ld. Counsel, Mr. A.K. Gayen, appearing on behalf of the opposite party no. 2 submitted nothing on merit. Mr. Gayen has only submitted that the defacto complainant put the law in motion out of enmity.

- 10.** Ld. Counsel, Mr. Debasish Roy appearing on behalf of the State has categorically stated that sufficient incriminating material including the money receipts have been collected in the case diary. He has put special emphasis on the statement of some agents recorded under Section 161 of CrPC with regard to collection of money in exchange of job assurance from various unemployed people ranging to almost 450 people.
- 11.** Before parting with, Mr. Roy has contended that no criminal proceeding can be quashed solely on the basis of compromise as this offence is not private in nature and has impact on the society at large. In support of this contention, he has relied on a case of ***Gian Singh vs. State of Punjab and another*** reported in ***(2012) 10 Supreme Court Cases 303.***

Analysis:-

- 12.** After careful perusal of the cases relied on behalf of the petitioner it has come to the notice of this Court that the Ld. Senior Counsel has tried to mainly put emphasis on the written complaint and its veracity. Through the cited judgments, he has made an attempt to impress this Court that mere mentioning of the Sections in the complaint is not

conclusive of the matter. Rather what is required to be brought to the notice of the Court is the particulars of the offence committed and the role played by the accused in committing the offence. Mr. Moitra has further added that issuance of process should not be based on vague and general allegations.

13. Ld. Senior Counsel, has taken assistance of the case of ***Deepak Kumar Shrivastava*** (supra) wherein Hon'ble Apex Court dealt with a case of claims and counter claims by both the parties where the accusation was that both of them have extracted money from each other in mode of cash for securing job of their relatives. But, during enquiry no supporting evidence like relevant documents of the transaction, details of the call records and recorded conversations were provided by any of the parties. After analyzing the factual aspects of this case the Hon'ble Apex Court justly made a parting suggestion that no such criminal prosecution should be allowed to continue where the object to lodge the FIR is not for criminal prosecution and for punishing the offender for the offence committed but only to recover the money under coercion and pressure. Having discussed the case, I do not find any

resemblance in the factual matrix of the case of **Deepak Kumar Shrivastava** (supra) with that of the present matter as in the referred case the entire dispute pertaining to unethical transaction was by and between two private parties. Moreover, no supporting evidence in support of the alleged transaction was ever produced by either of the parties in order to strengthen the veracity of the claim. But in the case at hand, the dispute is not confined within only two private parties but it is much greater in impact as almost 450 unemployed people are directly connected with the dispute. In addition to that, enough supporting evidence including the money receipts which show that the petitioner himself has endorsed the transaction, has been collected by the Police to prima facie establish a case which can only be properly adjudicated after evaluation of all the necessary evidence during trial.

14. Before parting with, Ld. Senior Counsel has contended that in the event that the informant is a person who claims to know the facts, and is also closely related to the victim, it is expected that all relevant facts would be certainly mentioned in the FIR. But still if there is omission of important facts like the case at hand, then that will definitely undermine the

veracity of the case of the prosecution. He has also highlighted the fact that the delay in filing the written complaint without any plausible explanation is likely to attract quashment.

15. Now coming to the case at hand, I would like to first discuss about the written complaint which is the genesis of the impugned proceeding. After careful scrutiny, it appears that the main issue was related to payment of money in exchange of job which was never given nor the amount paid was ever reimbursed.

16. On the basis of the said complaint, an investigation was conducted by the Berhampur PS wherein they collected statements of some collection agents under Section 161 of Cr.P.C. along with some money receipts which are allegedly signed and endorsed by the petitioner himself. Now the main point for consideration is whether the collected evidence prima facie discloses cognizable offence or not.

17. I have gone through the case diary and from there it appears that a good number of evidence has been collected by the Police during investigation. Keeping in mind that context, in no stretch of imagination it can be said that the allegation made in the complaint is devoid of merits and does not prima

facie constitute the alleged offence. It is too premature a stage, to focus on the veracity of the prosecution case as it is a settled proposition of law that while exercising power under Section 482 of CrPC, the High Court in exercise of its jurisdiction under Section 482 of Cr.P.C does not function either as a Court of appeal or revision, also having no power to conduct a mini trial and only the power which can be exercised is namely,

- a) to give effect to an order under the Cr.P.C,
- b) to prevent abuse of the process of the Court, and
- c) to otherwise secure the ends of justice.

In light of the above principle, I am unable to interfere with impugned proceeding at this stage by invoking power under Section 482 of CrPC as all the material contradictions with regard to the alleged occurrence is a subject matter of trial.

18. Now coming to the issue of subsequent settlement and joint compromise petition and the plea raised by the opposite party no. 2 that the impugned proceeding was put into motion only on the basis of enmity cannot be said to be justifiable. As prima facie evidence collected speaks otherwise. According to the ratio enumerated in the case of **Gian Singh** (supra) it is

the duty of the High Court to assess the nature and gravity of the crime before exercise of extraordinary power. Serious offences cannot be fittingly quashed even though the dispute is settled by and between the parties that too where the defacto complainant is a person who alleged to have collected money from almost 450 people as such offences are not private in nature and have a serious impact on the society at large. As a result, no criminal proceeding having greater impact can be quashed only on the basis of subsequent settlement and compromise.

- 19.** In the aforesaid view of the matter the instant revision application being no. CRR 3684 of 2023 stands dismissed.
- 20.** As a sequel, the CRAN Application being no1 of 2023 also stands disposed of in light of the observation made hereinabove.
- 21.** Interim order, if there be any, stands vacated.
- 22.** Connected applications, if there be any, stand disposed of accordingly.
- 23.** All parties to this revision application shall act on the server copy of this order downloaded from the official website of this Court.

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

[BIBHAS RANJAN DE, J.]