

26.08.2025

Court No.23

DL/Item No.– **73**

[Milan, A.R. (Ct.)]

CRR 320 of 2011

In the matter of:

Reba Mondal & Anr.

None appears on behalf of either of the parties.

No accommodation is sought for.

This case is pending since 2011.

Considering the nature of prayer and the long pendency of the case, this Court seems it would be appropriate to dispose of the case on merits on the basis of materials available on records.

The petitioners have filed this application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 (in short, “CrPC”), seeking quashing of the proceeding being CGR Case No.3781 of 2006 arising out New Alipore Police Station Case no.182 dated 25.01.2007 under Sections 406/418/420/120B of the Indian Penal Code (in short, “IPC”) now pending before the learned Judicial Magistrate, 8th Court, Alipore, South 24 Parganas and also challenged the order dated 23.11.2010 passed by the learned Judicial Magistrate, 8th Court, Alipore, South 24 Parganas, thereby the learned Trial Court has rejected the petitioner’s prayer for discharge in connection with the aforesaid case.

While considering the application for discharge filed by the petitioners, the learned Trial Court has observed as under:-

- 1) Every company has its own internal management which is mentioned in the Articles of Association. The question as to whether any Director of the Company can file any

criminal case against the other director of the company alleging financial defalcation is the subject matter of adjudication and cannot be decided without trial.

- 2) The submission of the Ld. defence counsel as to the existence of certain documents which are sufficient for releasing them from being charged in a criminal proceeding is also a subject matter of adjudication and cannot be decided at the stage.
- 3) There are certain provisions as to the relevancy, admissibility and production of any document as per Indian Evidence Act. Without final adjudication of the case nothing can be finally concluded as to the opinion that the charge is groundless.
- 4) Without the completion of trial nothing can be concluded as to whether all the witnesses being examined under Section under 161 of the Code of Criminal Procedure by the investigating agency are interested witnesses or not. It is also pertinent to note here that the evidential value of any interested witness cannot be discarded in toto. In the decision reported in **2003 Cr.L.J. Page 3876**, it was held that reliability of evidence of such witness cannot be rejected merely because he is close relative of victim. Court has to adopt a careful approach while analyzing the evidence of such witness.
- 5) It is also settled principal of law that defect in the investigation should not be a ground for discharging the accused persons. In a decision reported in **2006 SCC (Cri) page 534**, it was held that defects in the investigation is no ground to discredit testimony of eyewitnesses.
- 6) Place of occurrence may be two in case of offence continuing to be happening within the same transaction of the events and if there is any mistake by the recording officer of the investing agency, then that mistake can not be considered to be fatal to the case of the prosecution and that also cannot be determined without the conclusion of the trial.

- 7) Any person having knowledge over the cause of action can start a criminal proceeding against the accused person. There is no hard and fast rule that the worst sufferer should file the case.
- 8) Lastly, after considering the materials in the C.D., this Court considers that there is sufficient Prima facie material against the accused persons for framing of charge.

The stands taken by the Trial Court are mostly found correct. This Court finds no infirmity or gross illegality in the findings while considering the prayer of the discharge of accused person at the stage of consideration of charge.

Therefore, it calls for no interference. **CRR 320 of 2011** is, thus, **dismissed**.

Connected applications, if any, are also, thus, disposed of.

Interim order, if any, stands vacated.

Let a copy of this order be communicated to the learned trial Court for information and taking necessary steps.

All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court without insisting upon production of a certified copy thereof.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary legal formalities.

(Ajay Kumar Gupta, J.)