21.11.2025
SL. 15
Court No. 25
Suvayan

C.R.R. 1574 of 2008

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

In the matter of: **Hanuman Tea Company Limited & Anr.**

....petitioners.

Mr. Kaushik Chatterjee
Mr. Tirthankar Dey

...for the petitioners.

Mr. Arijit Ganguly
Ms. Debjani Sahu

...for the State.

1. The petitioners have filed the present revisional application being CRR 1574 of 2008 praying for quashing of the proceeding in EBGR Case no. 30 of 2001 pending before the learned Judicial Magistrate, 3rd Court, Alipore, South 24 Parganas arising out of Bhawanipur P. S. Case no. 321 of 2001 dated September 24, 2001 under Section 406 of the IPC and the further order passed by the learned Court in the said proceeding. On the basis of the written complaint of Enforcement Officer, Employees' Provident Fund Organization, West Bengal dated June 13, 2001, the above case was registered by the Bhawanipur P.S. for the offence under Section 406 of the IPC on September 24, 2001.

2. The allegation in the complaint is that during the inspection of the establishment on June 13, 2001 it was noticed that the employer that is the petitioner no. 2 viz. Sushil Kumar Bagla has detected an amount of Rs. 2,92,509/- from the salary/wages of the employees as employees share of provident fund contribution for the period of March, 1998 to December,

1999 but has not deposited the said amount with the statutory fund and accordingly, the petitioner has violated the provisions of section 6 of the Act read with Para 38 of the Employees' Provident Fund Scheme.

3. The petitioners in the present revisional application under Section 482 of the Cr.P.C. has relied upon three challans deposited with the State Bank of India, N. S. Road, Calcutta on June 23, 2001, June 27, 2001 and July 12, 2001 with respect of the amount of Rs. 1,39,665/-, Rs. 26,684/- and Rs. 2,92,867/- respectively.

4. Learned counsel for the petitioners submits that though the complaint was made on June 13, 2001 but subsequently, on June 27, 2001 and July 12, 2001 the petitioners have deposited the said amount with the State Bank of India but the investigating agency during the investigation has not considered the said document. He submits that though the compliant is dated June 13, 2001 but the FIR was registered on September 24, 2001. On the date of registration of the FIR the petitioners have already deposited the said amount in the statutory amount. Thus there is no case made out against the petitioners but without considering the said challans, the police have submitted the charge-sheet against the petitioners for the offence under Section 406 of the IPC.

5. Learned counsel for the petitioners has relied upon the judgment in the case of ***Rukmini Narvekar vs. Vijaya Satardekar and Others*** reported in ***(2008) 14 SCC 1*** and submits that the Hon'ble Supreme Court has categorically held

that though there is no scope for the accused to produce any evidence in support of the submissions made on his behalf at the stage of framing of charge and only such materials as are indicated in Section 227 Cr.P.C. can be taken into consideration by the learned Magistrate at that stage. However, in a proceeding taken therefrom under Section 482 of the Cr.P.C. the Court is free to consider the material that may be produced on behalf of the accused to arrive at a decision whether the charge as framed could be maintained.

6. Learned counsel for the petitioners has further relied upon a recent judgment passed by the Hon'ble Supreme Court arising out of ***Special Leave Petition (Crl.) no. 12354 of 2024 (Mukesh & Ors. Vs. The State of Uttar Pradesh & Ors.)*** dated November 29, 2024 wherein the Hon'ble Supreme Court has further held that a petition for quashing either under Section 482 of the Cr.P.C., 1973 or under Article 226 of the Constitution of India a wider challenge is available including a challenge on the ground of abuse of process of law and in such proceeding, the accused can rely upon the documents which are not the part of the charge-sheet.

7. The learned counsel for the petitioners further relied upon the judgment in the case of ***Vishal Kochar and Another Vs. State of West Bengal & Another*** reported in ***2024 SCC OnLine Cal 6536*** wherein the Hon'ble Court has held that there cannot be any justification for further continuation of the proceedings against the petitioners when the payment of the entire dues have been paid.

8. Learned counsel for the petitioners further submits that in the present case also though the complaint has been made that the petitioners have detected the amount from the salary/wages of the employees but has not deposited in the provident fund contribution account. But failed to consider that the petitioners have deposited the said amount which is appearing at page nos. 12, 13 and 14 of the present revisional application prior to registration of FIR. He submitted that it is a fit case wherein the proceeding initiated against the petitioners is liable to be quashed.

9. *Per contra*, learned counsel appearing for the State submits that the case has been initiated in the month of September, 2001 and after the initiation of the case, the petitioner has got an anticipatory bail but has not co-operated with the investigating agency. The petitioner has not supplied the said document which the petitioner relying upon in the present revisional application. He further submitted that the investigating agency has completed the investigation and *prima facie* found that the petitioner committed an offence under Section 406 IPC and accordingly the charge-sheet is filed. He further submits that if the petitioner relied upon certain documents the petitioner is at liberty to rely the said document at the time of trial but not at the stage of hearing of the revisional application under Section 482 of the Cr.P.C. He prays for rejection of the present revisional application.

10. Heard the learned counsel for the parties.

11. This Court finds that the FIR has been initiated on the specific

allegation that the petitioners have detected an amount of Rs. 2,92,509/- from the salary/wages of the employees as employed share of the provident fund contribution for the period of March, 1998 to December, 1999 but has not deposited the said amount with the statutory fund and has committed the offence under Section 406 of the IPC. The complaint was made on June 13, 2001 and the FIR has been initiated on September 24, 2001. The document which the petitioner has relied upon that is the page nos. 12, 13 and 14 of the revisional application it reveals that the petitioner deposited more than the amount as mentioned in the complaint before the State Bank of India on June 27, 2001 and July 12, 2001. After the initiation of the FIR investigation has been carried out and on completion of investigation charge-sheet is filed.

12. The specific question was put to the learned counsel for the State whether in the charge-sheet the Investigation Officer has collected the document which the petitioner has relied upon. In his fairness submission, the learned counsel for the State submits that there is no reflection of the said document or whether the Investigating Officer has investigated on the said issue.

13. Considering the above, this Court finds that the allegation on the basis of which the case has been initiated against the petitioners for the offence under Section 406, the petitioner has already deposited the said amount before initiation of FIR with State Bank of India. But neither the complainant nor the

Investigating Officer have taken into consideration of the amount deposited by the petitioners in the State Bank of India on June 27, 2001 and July 12, 2001 through the FIR is lodged on 24.09.2001.

14. At this stage, if the documents which the petitioners relied upon is not considered, the petitioners have to produce the said document before the Court at the time of trial, the result would be same. In the case of ***Adoni Cotton Mills Limited & Ors. Vs. Regional Provident Fund Commissioner*** reported in ***1995 Supp. (4) SCC 580*** the Hon'ble Supreme Court quashed the proceeding in view of the payment of the dues partly deposited and partly secured.

15. In the case of ***Rukmini Narvekar (supra)*** and ***Mukesh & Ors. (supra)*** the Hon'ble Supreme Court held that in a petition for quashing either under Section 482 of Cr.P.C. or under Article 226 of the Constitution of India a wider challenge is available including a challenge on the ground of abuse of process of law. In such proceeding, the accused can rely upon documents which are not the part of the charge-sheet.

16. In the present case also the case is initiated on 13.06.2001 on the allegation that the petitioners have not deposited the amount which was deducted from the salary/wages of the employees or employers share of provident fund contribution but before requisition of FIR the petitioners have deposited the amount.

17. Considering the above, this Court finds that it is a fit case for quashing of the proceeding initiated by the Bhawanipur P.S.

being FIR no. 321 of 2001 dated September 24, 2001 under Section 406 of the IPC.

18. Accordingly, the proceeding initiated against the petitioners by the police of Bhawanipur P.S. being FIR no. 321 of 2001 dated September 24, 2001 under Section 406 of the IPC and the proceeding pending before the learned Judicial Magistrate, 3rd Court, Alipore, South 24 Parganas being EBGR Case no. 30 of 2001 are set aside and quashed.

19. The petitioners are discharge from their respective bail bonds.

20. CRR 1574 of 2008 is allowed.

21. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

22. Copy of this order be forwarded to the learned Judicial Magistrate, 3rd Court, Alipore, South 24 Parganas for his information.

(Krishna Rao, J.)