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7.3.2025
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CALCUTTA HIGH COURT
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRR 54 of 2025

Subhajit Sarkar @ Shubhajit Sarkar
-vs-

The State of West Bengal & Anr.

Mr. Dibyajyoti Bhowmick ...for the petitioner.

Mr. Nilay Chakraborty
Mr. Sourav Ganguly ... for the State.

Affidavit of service filed by the petitioner is taken on record.

In spite of service defacto-complainant/opposite party is not represented.

Learned counsel appearing on behalf of the State placed the case diary and leave the matter to the discretion of the Court.

This application has been directed with a prayer to quash the FIR lodged by one Anindita Halder, against the petitioner under section 403/406/420/506/34 of the Indian Penal Code corresponding to G.R. Case No. 804 of 2024 presently pending before learned Chief Judicial Magistrate, Cooch Behar.

In the FIR defacto-complainant alleged that she and one Niladri Sekhar Das, the other accused (who is not the petitioner

herein) had established a gym and it was their joint partnership business. She further alleged that since the beginning of the business the present petitioner/accused had been part of their business and the aforesaid two partners bought all their gym equipments from the present petitioner. The main allegation leveled in the FIR is that few days after opening of the said gym the aforesaid partner Mr. Niladri Sekhar Das, and the present petitioner started misbehaving with her and on 7th October, 2024, said Niladri Sekhar Das, and the present petitioner used intimidation to force her into signing a deed where it has been recited that she agreed to give up her share in the gym business for rupees 3,30,000/-, which they promised to pay within four months. However, they refused to provide her the original copy of the deed. It is also alleged that when she asked for money Niladri Sekhar Das and the petitioner became aggressive and threatened her with offensive languages.

On the basis of aforesaid allegation police started aforesaid investigation. Being aggrieved by the said investigation petitioner submits that his role in the matter was strictly confined to a contractual agreement for supply of gym instruments, which he duly performed and beyond the specific contract the petitioner did not participate nor had any interest in any other activities or management of the said business. The defacto complainant has initiated the present case out of vengeance as she want to resolve that dispute which has come up between herself and her business

partner namely Niladri Sekhar Das by creating pressure upon petitioner. Therefore the petitioner is a victim of circumstances and has been dragged falsely in the present case, initiated by the complainant. In fact the defacto complainant in her written complaint described the particular incident that purportedly occurred, when the petitioner was not present in the town of Cooch Behar, as on that date he went to Siliguri to visit her mother who was undergoing cancer treatment. He further submits that the entire allegations leveled in the application is baseless so far as the present petitioner is concerned and is liable to be quashed qua the petitioner.

Having heard learned counsel appearing on behalf of the petitioner and on perusal of the materials available in the case diary including contents of the FIR and the statement of the witnesses recorded under section 161 of the Cr.P.C. it appears that the present dispute so far as the present petitioner is concerned is purely civil in nature. The entire idea of implicating present petitioner seems to be to convert a civil dispute into criminal proceeding in order to put pressure upon the petitioner for return of the amount allegedly invested in the partnership business. Merely on the allegation that the present petitioner is an abator in not allowing her to join business or creating trouble in smooth running of partnership business, without attributing any specific role in furtherance of the general allegation, only leads to a situation wherein one fails to ascertain as to what role

exactly played by petitioner in furtherance of the alleged offence. The allegation against the present petitioner is therefore general and omnibus in nature and do not warrant prosecution. Moreover, time and again Supreme Court has deprecated that the criminal court cannot be used as tool for recovery of money.

In such view of the matter I find that, if the present proceeding is allowed to continue any further against the petitioner it would amount to abuse of the process of Court.

In such view of the matter, CRR 54 of 2025 is allowed.

The impugned proceeding being Kotwali Police Station Case No. 466 of 2024 dated 06.05.2024 corresponding to GR Case No. 804 of 2024 presently pending before learned Chief Judicial Magistrate , Cooch Behar is quashed qua the present petitioner namely Subhajit Sarkar @ Shubhajit Sarkar.

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

(Dr. Ajoy Kumar Mukherjee, J.)