

02 18.06.2026
SM Ct. No.42

CRR 2370 of 2017
With
CRAN 1 of 2017 (Old No.CRAN 4013 of 2017)

Dilip Kumar Roy & Ors.
Vs.
Regional Provident Fund Commissioner & Ors.

1. When the matter is called on for hearing, none appears on behalf of the petitioners. It is a matter of record that this revisional application has been pending before this Court since 2017. Despite the matter being listed on numerous occasions and ample opportunities being afforded to the petitioners to prosecute their cause, they have remained persistently absent. Further, there is no updated status report on the record from the Court of the Learned Metropolitan Magistrate, 5th Court, Calcutta, regarding the status of Special Case No. 3 of 2016. Given the long pendency of this litigation and the consistent failure of the petitioners to represent their case, this Court finds it neither feasible nor in the interest of justice to keep this matter pending any longer. Accordingly, I proceed to dispose of this matter on its merits based on the materials available on record.
2. The petitioners, who are partners of the firm “M/s. Art Union,” have invoked the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973, seeking to quash the criminal proceedings in Special Case No. 3 of 2016. These proceedings were

initiated by the Regional Provident Fund Commissioner for alleged offences under Sections 406, 409, and 120B of the Indian Penal Code, arising from an alleged default in depositing employees' provident fund contributions amounting to Rs. 7,105/- for the period of July 2015 to January 2016.

3. The primary contention of the petitioners is that they have subsequently deposited the full amount with the Provident Fund authorities, which was accepted without reservation. They contended that this subsequent payment effectively "compounded" the offence, and consequently, the criminal prosecution is unwarranted and constitutes an abuse of the process of law.
4. Upon careful scrutiny of the materials on record, this Court finds that the petitioners' reliance on the subsequent deposit of dues is legally misplaced. It is a settled principle of law that the subsequent payment of statutory dues does not automatically obliterate the commission of the offence of criminal breach of trust under Sections 406/409 of the IPC. The offence is complete the moment there is a dishonest misappropriation of funds entrusted to the employer.
5. Furthermore, the contention that the matter has been "compounded" is unsustainable. Compounding of an offence requires a formal legal process under the applicable statutes and the Code of Criminal Procedure. The mere acceptance of arrears by the Provident Fund

office does not operate as a judicial or statutory compounding of a criminal case pending before the Magistrate. Whether the petitioners possessed the requisite *mens rea* and whether the elements of the charged offences are satisfied are questions of fact that can only be adjudicated during trial.

6. In the event of exercise of its power under Section 482 of the Cr.P.C, the Court must act with extreme circumspection. It is not the stage to embark upon an inquiry into the truthfulness of the allegations or to appreciate evidence that is yet to be led. In the absence of the petitioners to demonstrate that the prosecution is an abuse of process or that the allegations are inherently improbable, no ground for quashing exists. The judicial process must be allowed to take its due course in the Court of the Learned Magistrate.
7. In view of the aforesaid discussion, the instant application, being C.R.R. No. 2370 of 2017, is hereby dismissed.
8. The connected application being CRAN 1 of 2017 (old CRAN 4013 of 2017) is disposed of accordingly.
9. There is no order as to costs.
10. Interim order/s, if any, is/are hereby vacated.
11. The Learned Metropolitan Magistrate, 5th Court, Calcutta is directed to proceed with the trial of a Special Case No.3 of 2016 with utmost expedition uninfluenced

by any observation made in this order regarding the merit of the case.

12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.
13. Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)