

Criminal Revision
Present: **The Hon'ble Justice Ashim Kumar Roy**
Judgment on: 10.03.2010
C.R.R. No. 136 of 2010

Bijoy Kumar Saha
versus
State Of West Bengal & Anr.

Point:

QUASHING: Materials so far collected by the police during investigation clearly makes out prima facie case against the petitioner - Quashing of F.I.R. whether permissible - Code of Criminal Procedure, 1973 S. 482.

Fact: The petitioner by moving the instant application sought for quashing of the First Information Report under Sections 406/420 of the Indian Penal Code.

Held:

The contention of the learned advocate of the petitioner that he is absolutely innocent and spent the entire money for the work of the company and for the same he has submitted the accounts to the company is a pure question of facts and essentially his defence and as such same cannot be gone into at this stage to quash the FIR. The allegations contained in the FIR as well as the materials so far collected by the police during investigation clearly makes out prima facie case against the petitioner, as such question of quashing of the impugned FIR does not at all arise.

(Paragraph – 3)

For Petitioner : Mrs. Kakali Chatterjee

For State : Mrs. Krishna Ghosh

For Defacto-complainant: Mr. Manik Lal Poddar

The Court: Invoking Section 482 of the Code of Criminal Procedure, the petitioner moved this application seeking quashing of the First Information Report relating to Bidhannagar East P. S. Case No. 117 dated 22.7.2009 relating to the offences punishable under Sections 406/420 of the Indian Penal Code.

2. Heard the learned advocates appearing on behalf of the parties. Perused the Case Diary containing the evidentiary materials collected during the preliminary investigation.

3. Now, having regards to the evidentiary materials collected during preliminary investigation, I find it is the case of the complainant that the accused/petitioner is one of their employees. It is the further allegation that during his course of employment, a sum of Rs. 3,43,000/- was entrusted to him for the purpose of utilization of the same for various works of the company. The accused withdrew the said amount of money from the bank which was given to him by an account payee cheque. I further find that there is an internal audit report which shows that the accused has not accounted for the said amount of money and has not made any disclosure as to how such amount of money has been utilized by him in the work of the company. The contention of the learned advocate of the petitioner that he is absolutely innocent and spent the entire money for the work of the company and for the same he has submitted the accounts to the company is a pure question of facts and essentially his defence and as such same cannot be gone into at this stage to quash the FIR. The allegations contained in the FIR as well as the materials so far collected by the police during investigation clearly makes out prima facie case against the petitioner, as such question of quashing of the impugned FIR does not at all arise.

4. This criminal revision has no merit and accordingly stands dismissed. Interim order, if any, stands vacated.

5. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)