
(2009) 06 CAL CK 0049
In the Calcutta High Court
Case No : C.R.R. No. 1320 of 2009

Animesh Hore and Another	Vs	APPELLANT
The State of West Bengal and Another		RESPONDENT

Date of Decision : 29-06-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 406, 420

Citation : (2009) 06 CAL CK 0049

Hon'ble Judges : Ashim Kumar Roy, J

Bench : Single Bench

Advocate : Debojyoti Deb and Mr. Pabitra Biswas, for the Appellant; Sobhendu Sekhar Roy for State and Ayan Bhattacharjee for O.P. No. 2, for the Respondent

Judgement

Ashim Kumar Roy, J.—This is an application for quashing of a charge sheet relating to the offence punishable under Sections 420/406/120B of the Indian Penal Code.

2. It is the case of the complainant that against valuable consideration, the complainant purchased 43,400 shares of Centurion Bank at the rate of Rs. 14/- per share and 500 shares of Bank of Maharashtra Ltd. at the rate of Rs. 40/- per share and on being asked by the accused Animesh Hore, he kept those shares in the Demat account belonging to the said accused. Subsequently, when he asked the accused to transfer those shares in his account, accused No. 1 refused to do the same. Finally, after repeated persuasion, the accused person returned him total 27,000 shares of Centurion Bank but the balance shares were neither returned nor any payment has been made against the same.

3. Mr. Debojyoti Deb, the Learned Counsel of the petitioners urge for quashing of the charge-sheet essentially on the ground the allegations are false and incorrect. According to him the shares in question were kept in the Demat account of the accused No. 1 by the complainant himself at his own will and without being influenced by the accused No. 1 and no such shares have been withheld by the petitioner No. 1 in his Demat account as alleged or at all. He

further submitted that in a recent crash in the share market there was a huge fall in share prices and institution of this case is aimed to compensate such loss by the petitioners.

On the other hand, Mr. Sobhendu Sekhar Roy, learned advocate, appearing on behalf of the State produced the Case Diary and submitted that during the course of investigation, police has collected sufficient supporting evidence which shows that the present petitioner is guilty of the alleged offences. He opposed the prayer for quashing.

Mr. Ayan Bhattacharjee, learned advocate, appearing on behalf of the de facto-complainant adopted the submissions of Mr. Roy and submitted that this is not a case for quashing.

4. I have given my anxious and thoughtful consideration to the rival submissions of the parties. This criminal revision is brought before this Court for quashing of the charge-sheet and in such circumstances there is no scope to enter into the merits of the allegations or the evidentiary materials collected during investigation. The truth or falsehood of the same cannot be gone into at this stage nor the defence materials can be taken into consideration. To decide the question of quashing, this Court is to see whether or not on the face of the evidentiary material collected during investigation a prima facie case has been made out against the accused or not. Having gone through the materials available from the Case Diary, which is the foundation of the impugned charge-sheet, it cannot be said no prima facie case of the alleged offence has been made out against the petitioner No. 1. There are materials in support of the allegations made in the First Information Report, as such question of quashing of the case as far as the petitioner No. 1 is concerned does not at all arise. However, from the Case Diary, I do not find any iota of materials as against the petitioner No. 2 that he was liable for commission of any offence for which charge-sheet has been submitted against him, thus the impugned charge-sheet as against the petitioner No. 2 stands quashed. In the result, this criminal revisional application succeeds partly. The impugned charge-sheet as against the petitioner No. 2 stands quashed, but the prayer for quashing of the charge-sheet as regards to the petitioner No. 1 is declined.

It goes without saying, I have not gone into the merits of the allegations made in the complaint and whatever has been observed in this Judgment must not be construed as an opinion on merit.

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