(1994) 10 CAL CK 0001

In the Calcutta High Court

Case No : Criminal Revision No. 1731 of 1994

Sankar Gopal and Others APPELLANT

Vs

State of West Bengal and Others RESPONDENT

Date of Decision : 03-10-1994

Acts Referred:

Chit Funds Act, 1982 — Section 12, 14, 19, 22
Criminal Procedure Code, 1973 (CrPC) — Section 156, 157(1), 482
Penal Code, 1860 (IPC) — Section 406, 420

Citation : 99 CWN 1128

Hon'ble Judges : G.R. Bhattacharjee, J

Bench : Single Bench

Advocate : S.P. Talukdar, K. Dasgupta and Sujata Adhikary, for the Appellant; Himanshu Dey and S.S. Mahapatra, for the Respondent

Final Decision : Dismissed

Judgement

G.R. Bhattacharjee, J.—This revisional application under Sections 482 Cr.P.C. has been filed for quashing the proceeding being Nadia District Kotwali P. S. Case No. 158 dated 2.5.94 under Sections406 / 420 /1208 I.P.C. read with Sections 4, 5 and 6 of the Prize Chit Money Scheme (Banning Act), 1978 and Sections 12, 14, 19 and 22 of the Chit Funds Act, 1982 pending against the accused petitioners in the court of the learned. Sub-Divisional Judicial, Magistrate, Krishnanagar, District Nadia. The main question involved in this revision is whether on the basis of the F.I.R. in the case, the police can embark upon an investigation in the matter. The F.I.R. in this case has been lodged by one Shri Tapan Laha. It is stated in the F.I.R. inter alia, that the complainant was appointed as agent of Verona Commercial Credit and Investment Company Limited in 1991 and that the petitioner No. 1 Sankar Gope the Managing Director of the Company and the other two petitioners and one Gopal Samanta told about the terms of collection and refund of money with interest after maturity, etc. It is also the allegation in the F.I.R. that the complainant and others collected about Rs. 3.00.000/- from different persons and deposited the same with the company and the company also initially refunded the deposits so as to earn the confidence of the depositors but for about one year last the company was refusing to repay money even after maturity and that for causing harassment the company in some cases also issued A/C payee cheque which was of no avail to poor depositors who had no bank account. It is also alleged in the complaint that the Managing Director and the other directors of the company refused to make repayment and that the money of the company has been diverted by the Managing Director and his other associate Directors for their personal purpose and for use in the business of certain other concerns managed by the same Managing Director and other Directors in their personal interest. The names of those concerns also have been mentioned in the F.I.R. The names of as many as thirteen depositors with the amounts deposited also have been mentioned in the F.I.R. II is further alleged in the F.I.R. that the accused persons have cheated the depositors named in the complaint and have also misappropriated their deposited amounts. It is also indicated in the F.I.R. that there are also other such depositors. It is seen that in the F.I.R. allegation of cheating and misappropriation is there. Some factual narration is also there relating to alleged cheating, misappropriation, etc. It has been observed by this Court in Star Iron Works Pvt. Ltd. v. Bureau of Investigation, 97.C.W.N. 500. in paragraph 3 that the written complaint to the police in lodging the F.I.R. for the purpose of prompting the police to start an investigation thereon need not be an emcyclopaedia containing all details of the offence and the offenders and that it will be absurd to hold that unless all the ingredients of an offence are elaborately spelt out in the F.I.R. and unless all the details about offenders arc mentioned in the F.I.R. there cannot be any investigation. Again in paragraph 5 of the said decision in Star Iron Works Pvt. Ltd. (Supra) it has been observed that the law is by now established that the court should not interfere with police investigation on light grounds and that it is also not expected that in every case the full details of the offence and the identity of all the offenders can be ascertained by the informant before going to lodge the information with the police. It has further been observed (ibid) that the very purpose of lodging an F.I.R. is to actuate the police to undertake investigation for unearthing the details of the commission of the offence including the identity of the offenders and that it is also not necessary that for the purpose of giving jurisdiction to the police to undertake an investigation in cognizable case the details about the manner of commission of the alleged offence and the identity of the offenders must be there in the F.I.R. so that then and then only the police can take up the investigation and not otherwise. The Court also observed thus (ibid):

In this connection, we may refer to Section 157(1) Cr.P.C. which empowers the police to embark on an investigation in a cognizable case if from information received or otherwise an Officer-in-Charge of police station has reason to suspect the commission of an offence which he is empowered u/s 156 to investigate. This makes it clear that the police can investigate a cognizable offence on suspicion on the basis of information received or otherwise. Of course, it is needless to mention that the suspicion must be based on reason and must not be capricious, whimsical or fanciful and the police has been vested with that power in the interest of the community. If the law is so interpretated that the police can embark upon an investigation of cognizable offence only when the crime has been clearly established in contradistinction to the stage of suspicion then perhaps there Would have been no necessity of investigation by the police at all.

As it is seen in the present case the allegation of cheating the depositors and of misappropriation is there in very express terms. Factual backgrounds and associated factual indications for reasonably suspecting the commission of offence of cheating and misappropriation of money are also there in the F.I.R. Broadly speaking the allegation in the F.I.R. is that the depositors-some of them named-deposited money with the company on term of getting back the same with interest on maturity, but they or many of them have not been able to get back their money on maturity and they have been cheated and their monies have been misappropriated. Such allegation in the F.I.R. in the absence of special reason or exceptiona circumstances, will justify police investigation, else unscrupulous persons will find a safe pasture, protected by law. for going on practising merrily fraud and cheating under cover of camouflage and manipulation to dupe innocent people with impunity. The machinery of law cannot remain a silent spectator in such a situation and it is only desirable in the interest of all concerned that truth should be brought out through investigation, be it a truth of innocence or truth of crime. In the circumstances, in my opinion, it is not a fit case where the court should quash or stop the investigation on the ground that the F.I.R. is not potent enough to allow the starting or continuance of police investigation in the matter, incidentally. I may mention here that the investigation has also proceeded in the matter to a considerable extent. The Case Diary (CD.) of the case also has been produced before me and on perusal of the CD. I find that there are already materials justifying the continuance of the investigation. I. however, refrain from making any documentation of the materials appearing in the CD. As any disclosure of the same at this stage may be detrimental to proper investigation. I may mention that the materials in the CD, display inter alia strong indication that a letter purportingly issued from the R.B.I, to the company was manufactured with a view to assure the public that keeping money with that company will be safe. Be that as it may the contents of the F.I.R. in my opinion prima facie make out a case for police investigation and it would not be proper to quash the F.I.R. or the investigation.

2. In this connection, the learned Advocate for the petitioner submits that in another case being Criminal Revision case No. 1701 of 1994 the learned judge quashed another investigation against the petitioners. On the other hand it is submitted on behalf of the opposite parties that against that order the Supreme Court has been moved. Be that as it may all that say in this connection is that another proceeding might have been quashed for reasons relying to that case and obviously each case is confined to its own facts and circumstances. In the circumstances, in my opinion, that more fact that another proceeding has been

quashed cannot be a reason for quashing the present proceeding also. For reasons discussed. I have already found that in the background of the facts of this case it is not considered proper to quash the F.I.R. or the investigation in the present case.

3. On the other hand the learned Advocate for the opposite party has referred to certain decision of the Supreme Court which I mention hereunder. In Union of India and another Vs. W.N. Chadha, the Supreme Court took note of the observation made in State of Haryana and others Vs. Ch. Bhajan Lal and others, that when the entire matter is only at a preliminary stage and when the investigation has yet to go a long way to gather the requisite evidence the Court cannot come a conclusion one way or the other on the plea of malafide at such a stage. In State of Haryana and others Vs. Ch. Bhajan Lal and others, it has been observed thus in paragraph 101 :

If on a consideration of the relevant materials, the court is satisfied that an offence is disclosed, the court will normally not interfere with the investigation into the offence and will generally allow the investigation into the offence to be completed for collecting materials for proving the offence.

4. The Supreme Court in Janata Dal Vs. H.S. Chowdhary and Others, has observed in paragraph 135 that the inherent power conferred by Section 482 Cr.P.C. should not be exercised to stifle a legitimate prosecution and that the High Court being the highest Court of a State should normally refrain from giving a premature decision in a case wherein the entire facts are extremely incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved whether factual or legal are of great magnitude and cannot be seen in their true perspective without sufficient material. In Union of India and others Vs. B.R. Bajaj and others, the Supreme Court after taking notice of certain allegations made in the F.I.R. observed thus in paragraph 8:

There are some of the important allegations in the F.I.R which make out a cognizable offence at that stage and the registration of an F.I.R. is only the beginning of the investigation. That being the case, the High Court has grossly erred in quashing the F.I.R. itself when several aspects of the allegations in the F.I.R. had still to be investigated.

In view of all the discussions made above I am clearly of the opinion that this is not at all a fit case for quashing the F.I.R. or the police investigation. In the circumstances, this revisional application is dismissed. All interim orders stand vacated.

