
(2016) 02 CAL CK 0081
In the Calcutta High Court
Case No : C.R.R. 2907 of 2015.

Sri Sukhendu Sau

APPELLANT

Vs

The State of West Bengal and another.

RESPONDENT

Date of Decision : 15-02-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 401, 482
Penal Code, 1860 (IPC) — Section 468 471 472 420 120B 34

Citation : (2016) 2 CalCriLR 381

Hon'ble Judges : Joymalya Bagchi, J.

Bench : Single Bench

Advocate : Milon Mukherjee, Sr. Advocate, Bibaswan Bhattacharyya and S.K. Dey, Advocates, for the Appellant; Amartya Ghosh, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Joymalya Bagchi, J. - Affidavit-of-service filed by the petitioner be kept with the record.

2. The petitioner is a superannuated licensed building surveyer of Baidyabati Municipality. The allegation against him is to the effect that he had prepared a building plan which had been submitted for sanction before Baidyabati Municipality in favour of co-accused Sukumar Das. It is further alleged that Sukumar Das utilised a photocopy of the plan allegedly signed by Tarit Kumar Mitra, Sub-Assistant Engineer and ward Councilor namely Pravash Poddar for obtaining water connection to the premises. On enquiry, it was suspected that the said signatures were forged and a criminal case being Srerampur P.S. Case No. 262/14 dated 02.05.2014 under Sections 468/471/472/420/120B/34 Indian Penal Code was registered for investigation. In course of investigation the documents in question were seized and sent for opinion of handwriting expert and it transpired that the questioned documents were not signed by the maker Tarit Kumar Mitra and Pravash Poddar but by Sukumar Das. Pursuant thereto, charge-sheet has been filed against the said Sukumar Das and the petitioner who

had prepared the original plan.

3. Mr. Mukherjee learned senior counsel appearing for the petitioner submitted that the uncontroverted allegations indicate that the document were allegedly forged and used by co-accused Sukumar Das. He also submitted that the petitioner merely prepared the original plan and there is nothing to connect to the petitioner to the alleged forgery or user of forged document.

4. On the other hand, Mr. Ghosh, learned advocate for the State relying on the statements recorded in the course of investigation submitted that the petitioner having prepared the original plan cannot be said to be completely innocent and it would be premature to quash the proceeding against him. Ordinarily, I would have acceded to the submission of Mr. Ghosh, however, having gone through the statements recorded under section 161 of the Cr.P.C. I find that the alleged forged signatures do not appear in the original plan prepared by the petitioner. On the other hand, the said signatures appear in a said photocopy of the said plan which was utilised by co-accused sukumar Das, for obtaining water connection. There is no material on record to show that petitioner was aware of the making of the photocopy of the plan or the signatures thereon. For the said reason, I am of the opinion that the uncontroverted materials collected in the course of investigation do not involve the petitioner either with the making or user of the forged document, i.e. the photocopy of the original plan. It is nobody's case that the forged signatures appear in the original plan which is prepared by the petitioner. Furthermore the forensic examination of the questioned document also does not implicate the petitioner with the forgery.

5. For the aforesaid reasons I am of the opinion that the uncontroverted allegations do not implicate the petitioner with the alleged crime even if it is accepted that he has the maker of the original plan. It is reiterated that the alleged forged signatures do not find place in the original plan itself. Accordingly, I am of the opinion that plan continuance of the impugned proceeding against the petitioner is an abuse of the process of Court and the same is accordingly quashed. Proceeding against co-accused Sukumar Das (who stands on a completely different footing) shall, however, continue in accordance with law and shall be taken to its logical conclusion. I further clarify that observations made in this order are for the purpose of disposal of the petition and shall have no bearing in course of the trial and the same shall be dealt with independently and in accordance with law.

6. The revision petition is accordingly disposed of.