

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

**C.R.R. 800 of 2014
Krishna Kumar Singhania
-Vs-
Dipen Dey**

For the Petitioner : Mr. Anand Keshari
Ms. Sutapa Ghosh (Bose)

Heard on : 04.04.2023, 25.04.2023, 10.08.2023

Judgment on : 29.09.2023.

Ananya Bandyopadhyay, J. :-

1. The petitioner filed an application under Section 482 of the Code of Criminal Procedure being aggrieved by the order of Learned Judicial Magistrate, 9th Court, Alipore taking cognizance of the Complaint Case being No.5130 of 2004 under Section 420 of the Indian Penal Code.
2. Perusal of the records reveal that the complainant/opposite party was the Secretary of Das Reprographic Workmen's Union a registered trade union of Das Reprographic (India) Limited which went into liquidation and thereafter wound up on 21st December, 1994. Pursuant to an order passed by the Hon'ble Supreme Court at Calcutta in C.P. No. 151 of 1986, the Official Liquidator was appointed as Liquidator to sale the assets and properties of Das Reprographics (India) Ltd to enable the repayment of its dues. Subsequently, the sale of assets and properties of the aforesaid Company was confirmed in favour of one Efcalon Tie Up Private Limited on 16th January, 1998 the sale of the aforesaid Company's assets in the factory premises situated at P-10, Taratala Road, P.S. Taratala, Kolkata

and at Biren Roy Road (West) Joth Shibrampur under police station Maheshtala, South 24 Parganas was confirmed.

3. The dispute between the parties in favour of the payment of sum of money to the tune of Rs. 10 lakhs for negotiating the claim of the workmen union was represented by the opposite party, on the condition as follows:

“aa. that the complainant Trade Union would thus withdraw the case and record the same either before the Courts of law or otherwise and hereby undertakes, never to go for any demand and/or litigation but at all material times would amicably resolve the situation without any protest.

bb. The said Das Reprographics Workmen Union representing all the workers of the said Das Reprographics Limited (in Liquidation) would have not claim and/or demand of any nature and manner whatsoever from the said Efcalon Tie Up Private Limited. Moreover, the petitioner is not liable to pay any amount individually to the complainant/opposite party. The complainant Dipen Dey has no cause of action to initiate the instant proceeding against the petitioner. The cheque was never issued for the benefic of the complainant. No money is due and payable by the petitioner to the complainant/opposite party.

cc. The petitioner submits that neither the said Efcalon Tie Up Private Limited/purchaser nor the petitioner had any other obligation towards the said Das Reprographics Workmen Union and As Reprographic Industrial Estate Sharmik Karmachari Congress apart what is resolved and agreed hereinabove and the said minutes which is to be treated as an Minutes dated 16th September, 2003 recording fresh terms and conditions binding upon the parties therein.

dd. The President of Das Reprographics Workers' Union has already confirmed that there is nothing due and payable from Efcalon Tie Up Private Limited to the Workers' Union and it also transpires that there is nothing due and payable from Efcalon Tie Up Private Limited to the workers. It would also transpires from an affidavit affirmed by the President Sri Pranab Mukherjee in Case No. 5130 of 2004 that the case was instituted due to inadvertence and oversight and that neither the Union nor anybody else is interested in proceeding with the case being No. C5130 of 2004 pending before the 9th Judicial Magistrate at Alipore, 24 Parganas (South).

ee. From time to time various meetings have been held between the management of Efcalon Tie Up Private Limited and Das Reprographics Workers' Union. Sri Dipen Dey the complainant has also been a part of such minutes. A copy of the minutes dated 4th October, 2013 wherein it was resolved that a case filed by Dipen Dey being C5130 of 2004 will be withdrawn.

ff. The cheque bearing No. 621801 dated 30.06.2004 had been merely given as a security towards enforcement of the commitment given by Efcalon Tie Up Private Limited to the Workers' Union. The said cheque was handed over Mr. Dipen Dey, the same was handed over to Mr. Dipen Dey, the same was handed over to Mr. Pranab Mukherjee as the custodian to the condition of deficit payment and other terms and conditions mention in the Minutes of the Meeting dated 16th September, 2013.

gg. Such cheque was never to be encashed by the complainant. The same was done only with an ulterior motive and to make unlawful gain by the complainant.”

4. The complainant/opposite party has an alternative remedy under Section 138 of the Negotiable Instrument Act and the provisions of Section 420 of the Indian Penal Code cannot be simultaneously invoked on the description of the relationship between the parties.
5. Accordingly, the criminal revisional application being CRR 800 of 2014 is allowed.
6. Proceedings in Complaint Case No. 5130 of 2004 under Section 420 of the Indian Penal Code pending before the Learned Judicial Magistrate, 9th Court, Alipore is accordingly quashed.
7. There is no order as to cost.
8. Let the copy of this judgment be sent to the learned trial court as well as the police station concerned for necessary information and compliance.
9. All parties shall act on the server copy of this judgment duly downloaded from the official website of this court.

(ANANYA BANDYOPADHYAY, J.)