

# Calcutta High Court

HON'BLE JUDGE(S): **BIBEK CHAUDHURI , J**

**SUDIP DAS V. STATE OF WEST BENGAL**

CRR - 745 of 2022, decided on 09/12/2022

**Criminal P.C. (2 of 1974) , S.482— Quashing of proceedings - Prima facie case - Offence of criminal breach of trust and cheating - Allegation that accused took loan from wife of informant but has not repaid said amount till date - Accused unable to produce any material that inspires Court to quash criminal proceeding - Informant had tried to realize loan amount from accused and certain meetings were also held in local Police Station but accused refused and neglected to make payment - Prima facie it seems accused misappropriated money which he took from wife of informant - Proceedings cannot be quashed.**  
(Para 5, 6)

**Name of Advocates**

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Mayukh Mukherjee, Abhijit Singh, Sarthak Mondal for Petitioner;

Swapan Banerjee, Suman De for Respondent.

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1. **ORDER:-**By invoking Section 482 of the Code of Criminal Procedure, the petitioner has prayed for quashing of the criminal proceedings in connection with Nischinda Police Station Case No.193 of 2018 dated 7th October, 2018 under Section 406/420/120B of the Indian Penal Code presently pending before the learned Chief Judicial Magistrate at Howrah.
2. The opposite party No.2 lodged a written complaint with the Officer- in-Charge of Nischinda Police Station stating, inter alia, that his wife Smt. Paromita Ghosh issued a cheque in favour of the petitioner herein, namely, Sudip Das towards loan for his medical and business purpose by on 14th January, 2010 amounting to Rs.3,00,000/- (Three lakh) only from the joint account maintained by the defacto complainant and his wife Paromita at Bank of India, Bally Bazar Branch. The said Sudip Das executed an agreement admitting receipt of the said sum of Rs. 3 lakhs on a Non Judicial Stamp Paper with an undertaking that he would return the said amount by 13th March, 2010. Subsequently on 15th July, 2010, the said Sudip Das issued a cheque of Rs. 3 lakhs in favour of Smt. Paromita Ghosh towards repayment of the loan amount but the said cheque was dishonoured. Paromita then lodged a complaint under Section 138 of the Negotiable Instruments Act. However the said case was dismissed for default on 16th

December, 2013. Subsequently the defacto complainant and his wife requested the said Sudip Das to make payment of the loan amount and the dispute between the parties was attempted to be settled in the year 2017 and 2018 at the intervention of police but Sudip Das did not make any payment of the said loan amount.

3. On the basis of the said complaint police registered Nischinda Police Station Case No.193 of 2018 dated 7th October, 2018 under Section 406/420 of the Indian Penal Code and took up the case for investigation. On completion of the investigation police submitted charge-sheet under Section 406/420 of the IPC against the petitioner.

4. The petitioner has approached this Court to quash the criminal proceeding under Section 482 of the Code of Criminal Procedure.

5. I have heard the learned Advocate for the petitioner. It is not in dispute that the petitioner took loan of Rs. 3 lakhs from the wife of the opposite party No.2 and the said amount was paid from the joint account of the opposite party No.2 and his wife. It is also remains uncontroverted that the petitioner has not paid the said amount till date.

6. The petitioner fails to rely upon any material that inspires the Court to quash the criminal proceeding pending against him. From the materials on record it is ascertained that the opposite party No.2 tried to realize the amount from the petitioner. Certain meetings were also held in the local Police Station but the petitioner refused and neglected to make payment of the said amount. This goes to suggest that prima facie the petitioner has misappropriated the money which he took from the wife of the opposite party No.2 as loan. Therefore, the materials on record shows prima facie ingredients of offence under Section 406/420 of the IPC.

7. Thus I do not find any cogent reason to allow the instant revision. The instant revision is accordingly dismissed.

**Petition Dismissed**