

27.02.2023

Sl. No.23.

Mithun.

Ct.No.42.

CRR/4190/2022

Swapan Bhowal & Ors.

Vs.

State of West Bengal & Anr.

Mr. Kallol Mondal, Adv.

Mr. Uday Sankar Chattopadhyay, Adv.

Mr. Suman Sankar Chatterjee, Adv.

Ms. Rajashree Tah, Adv.

Ms. Trisha Rakshit, Adv.

...for the petitioners.

Mr. Sourav Chatterjee, Adv.

Mr. Abhishek Halder, Adv.

Mr. Avik Ghatak, Adv.

Mr. Swadesh Misra, Adv.

Ms. Afreen Begum, Adv.

...for the De-facto Complainant.

The issue involved in the instant revision is as to whether a complaint made by the Secretary of a society registered under the Cooperative Societies Act against the Directors alleging defalcation of money constitutes an offence under Section 409 of the Indian Penal Code or not. The learned Trial Judge vide an impugned order dated 28th September, 2022 declared that Section 409 of the Indian Penal Code is attracted under the facts and circumstances of the case.

It is submitted by Mr. Mondal, learned Advocate that next date is fixed for consideration of charge. Therefore, the petitioners have preferred the instant revision challenging the jurisdiction of the learned Special Judge, Hooghly.

Mr. Sourav Chatterjee, learned Advocate, on the other hand, represents the private opposite party. It is submitted by

Mr. Chatterjee that the dispute between the parties has travelled more than once. The arena of this Hon'ble Court the petitioners were directed to cooperate with the investigation while they were granted bail. It is also submitted by the learned Advocate for the private opposite party that he has filed an application for further investigation of the case in order to stall further investigational process, the instant revision has been filed.

Having heard the learned Advocate for the parties, the opposite party is at liberty to file affidavit-in-opposition within 14 days from the date of this order and serve a copy of the same to the learned Advocate for the petitioners.

Petitioners are at liberty to file affidavit-in-reply within 7 days thereafter.

The matter shall be heard immediately on exchange of affidavits for which the parties are at liberty to mention the matter.

In the meantime, the learned Special Judge shall lay off his hands in framing charge against the petitioners under Section 409 of the Indian Penal Code. However, there shall not be any step in the matter of hearing of the application filed by the private opposite party regarding further investigation because further investigation at this stage does not change the perspective and nature of the case.

Learned Advocate on record on behalf of the petitioner is directed to serve a copy of the revisional application to the opposite party in course of this day.

(Bibek Chaudhuri, J.)