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## Sasanka Sekhar Pal Vs State of West Bengal

**C.R.R. No. 2498 of 2003**

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**Court:** Calcutta High Court

**Date of Decision:** Jan. 15, 2004

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) " Section 482#Penal Code, 1860 (IPC) " Section 120B, 420, 465, 468, 471

**Citation:** (2005) 2 CHN 97

**Hon'ble Judges:** P.N. Sinha, J

**Bench:** Single Bench

**Advocate:** Abhijit Basu, Subhajit Basu, Sandip Maity and Laxmi Narayan Das, for the Appellant;Rabi Sankar Chatterjee, for the Respondent

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### Judgement

P.N. Sinha, J.

This revisional application u/s 482 of the Code of Criminal Procedure (hereinafter called the Code) has been filed by the

petitioner for quashing the criminal proceeding being G. R. Case No. 255/03 which arose out of Chakdaha Police Station Case No. 87 dated

13.6.2003 and the chargesheet No. 64 dated 30.6.2003 under sections 465/468/471/420/120B of the Indian Penal Code (hereinafter called the

IPC) now pending in the Court of the learned SDJM, Kalyani, Nadia.

2. Learned Advocate for the petitioner contended that the petitioner was the Manager of Chakdaha Branch of Nadia District Central Co-

operative Bank Ltd. One Ratan Das deposited a sum of Rs. 10,000/- each in the said bank on 11.1.03, 1.3.03, 26.3.03 and 5.5.03 but, said

Ratan Das surreptitiously inserted digit "1" on left side of credit amounts of said Rs. 10,000/- each and subsequently withdraw Rs. 4,40,000/-

from the bank. Immediately after the petitioner became aware of the offences committed by Ratan Das, he lodged the FIR on 12.6.03 and on the

basis of it Chakdaha P. S. Case No. 87 dated 13.6.03 was started. Subsequently, Ratan Das has paid back the entire amount which he had taken

out of his account by committing the crime. Surprisingly enough, after investigation the police submitted chargesheet against him, Ratan Das and

Niranjana Bhattacharjee, the ledger keeper of the bank.

3. The submission of chargesheet against this petitioner indicates that in view of the bank report materials were revealed against this petitioner. In

fact, there was no such bank report or any document which can be treated as bank report establishing materials against this petitioner. The

petitioner being a Bank Manager at the relevant time cannot look into entire documents of a bank. The main responsibility of maintaining the

accounts is with the ledger keeper and it is clear, therefore, that the alleged offence was committed by Ratan Das in connivance with the ledger

keeper. The investigation was not proper and there was no document, evidence and materials to implicate the accused in this case. There is nothing

in the FIR to show involvement of the petitioner in the instant case. The FIR, the chargesheet and the documents, even if they are accepted at their

face value do not make out any offence against the petitioner. It would be an abuse of process of law to continue the criminal proceeding against

the petitioner, and accordingly, the criminal proceeding and the chargesheet should be quashed.

4. Learned Advocate appearing for the State contended that on 11.1.03, 1.3.03, 26.3.03 and 5.5.03 Ratan Das deposited Rs. 10,000/- each on

those 4 (four) days. The said Ratan Das in connivance with the ledger keeper and the present petitioner, i.e., Manager of the said bank

interpolated the amount and digit T was mentioned on the left side of the deposited amount of each day. During investigation the police officer

seized all the relevant documents of the bank including ledger book and it has been detected that the Bank Manager used to check ledger book

daily and has also put signatures on the ledger book after verification. The Bank Manager has overall responsibility and duty to check the ledger

books and he cannot absolve himself from his duty and responsibility. This petitioner has not only the direct participation behind the incident but, he

was also the conspirator in the incident. The petitioner being Bank Manager cannot ignore his vicarious liability. At this stage there is no ground at

all to quash the criminal proceeding and the Court would not consider evidence like a Trial Court or Appellate Court. The revisional application

should be dismissed and the learned Magistrate may be directed to proceed with the criminal case in accordance with law.

5. Considering the submissions made by the learned Advocates of the parties and perusing the revisional application, its contents thereof and the

annexures made therein, I find that, this petitioner was the informant of Chakdaha P. S. Case No. 87 dated 13.6.2003. In the FIR this petitioner

disclosed that Ratan Das deposited Rs. 10,000/- each on 11.1.03, 1.3.03, 26.3.03 and 5.5.03 but the ledger of the bank was tampered in such a

manner that the balance and credit amount were inflated by inserting digit "1" on the left side of the credit amount and balance in each day as stated

above. It further appears that Ratan Das thereafter withdraw Rs. 4,40,000/- from bank and it is alleged that subsequently he had returned the

same amount. From the case diary it appears that this petitioner, the ledger keeper and the said Ratan Das entered into a conspiracy and in

pursuant to their conspiracy the digit "1" was inserted on the left side of the ledger book on the aforesaid four dates on which Ratan Das deposited

Rs. 10,000/- each. In that process by depositing Rs. 40,000/- only in all on the abovestated four dates Ratan Das subsequently withdraw from the

bank a sum of Rs. 4,40,000/-.

6. During investigation, the Investigating Officer seized the ledger book and other relevant papers from the bank and the ledger book indicates that

this petitioner used to check the ledger books off and on and used to put his signatures also. This petitioner who was the Bank Manager has

overall responsibility and duty to check the ledger book and he cannot absolve himself from this responsibility. The petitioner being Bank Manager

cannot brush aside the vicarious liability behind the incident. The statement of witnesses recorded and the papers and documents seized and the

materials collected during the course of investigation establishes elements against this petitioner which is sufficient to proceed further against him in

the criminal proceeding.

7. It is not a fit case in which it can be observed that there is nothing in the instant proceeding and the chargesheet if it is accepted at its face value

do not make out any offence against the petitioner. The role of FIR in the instant matter is not important as lodging of FIR by this petitioner may

amount to a camouflage to conceal his involvement behind the incident. It is not desirable that the chargesheet should contain discussion of entire

evidence and incriminating elements collected during investigation. Materials in case diary only can reveal whether there is sufficient ground to

proceed further or not with the criminal case. In the instant case as has already been observed, there are sufficient materials to proceed further with

the criminal proceeding and it is not a fit case to quash the criminal proceeding.

8. It has been submitted by the learned Advocate for the petitioner that the petitioner will retire from service in the month of March, 2004 after

attaining age of superannuation and if the Court dismisses the revisional application learned Magistrate may be directed to proceed with the trial of

the case as expeditiously as possible.

9. In view of the above discussion the revisional application having no merit fails and is disposed of accordingly.

10. However, I make it clear that whatever I have stated above or observed should not be considered as opinion regarding merit of the case and

the concerned Court at appropriate stage would act in accordance with law.

11. The petitioner is given liberty to agitate all the points in the Court below at appropriate stages which he wanted to agitate here.

12. Learned SDJM, Kalyani is directed to take steps for speedy disposal of this case after supplying copies of relevant papers to the petitioner as

the petitioner is going to retire within a span of few months.

13. Send a copy of this order to the learned SDJM, Kalyani for information and necessary action.

14. Urgent xerox certified copy be given to the parties, if applied for, expeditiously.