

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CRIMINAL MISCELLANEOUS JURISDICTION)

Present

**Mr. Justice Ashish Ranjan Das**

**And**

**Mr. Justice Md. Riaz Uddin Khan**

**Criminal Miscellaneous Case No. 40064 of 2018**

**IN THE MATTER OF :**

An application under Section 561A of the Code of  
Criminal Procedure

-And-

**IN THE MATTER OF :**

Md. Billal Mia

...Accused- Petitioner

Versus

The State

...Opposite Party

Mr. Md. Ershad Hossain Rashed, Advocate

..... For Accused-Petitioner

Mr. S.M. Asraful Hoque, D.A.G with

Ms. Fatema Rashid, A.A.G

Mr. Md. Shafiquzzaman, A.A.G. and

Mr. Md. Akber Hossain, A.A.G

..... For the State

**Judgment on: 12.05.2024**

**Md. Riaz Uddin Khan, J:**

Rule was issued upon an application filed under section 561A of the Code of Criminal Procedure asking the opposite party state to show cause as to why the proceedings of the Foreign Exchange Regulation Tribunal Case No. 01 of 2018 arising out of Tahirpur Police Station Case No. 05 dated 10.01.2018 corresponding to G.R. No. 05 of 2018 (Tahir) under section 23 of the Foreign Exchange Regulation Act, 1947, now pending in the Court of Foreign Exchange Regulation Tribunal,

Sunamgonj should not be quashed and/or such other or further order or orders passed as to this Court may seem fit and proper.

At the time of issuance of Rule all further proceedings of the Foreign Exchange Regulation Tribunal Case No. 01 of 2018 arising out of G.R. Case No. 05 of 2018 (Tahir) was stayed for a period of 06(six) months from date which was extended time to time.

Brief facts for disposal of this Rule is that one Md. Firoj Mia, Sub-inspector of police of District Detective Branch, Sunamgonj lodged a First Information Report (FIR) alleging inter alia that on 09.12.2017 the informant along with other forces were on Special duty at Badaghat area under the Tahirpur Police Station and at about 18.00 hours the informant got secret information that Md. Billal Mia, the owner of the Banoful Verities Store illegally hoarding Indian currency. The informant informing the higher authority went to the place of occurrence at about 18.25 hours and upon query accused Md. Billal Mia brought out Indian Currency of total Rupees-1,99,300/- (One Lacs Ninety Nine thousand three hundred) from under the cash table of his shop which he was possessing illegally. On such allegation the informant lodged the aforesaid FIR.

Upon investigation police submitted charge sheet on 28.02.2018 under section 23 of the

Foreign Exchange Regulation Act, 1947 against the accused-petitioner.

After completion of formalities the case record was transmitted to the Foreign Exchange Regulation Tribunal, Sunamgonj for trial where it was numbered as Foreign Exchange Regulation Tribunal Case No. 01 of 2018 and the tribunal framed charge on 05.04.2018 under the aforesaid section of the law against the sole accused.

Mr. Md. Ershad Hossain Rashed, the learned Advocate appearing for the accused-petitioner submits that the informant being a Sub-inspector of police had no authority to file the instant case. The learned advocate relying on section 23 of the Foreign Exchange Regulation Act, 1947 submits that it is only the central bank which is authorized by law to file such case. In support of his submission the learned advocate cited a decision in the case of State-Vs-Mirza Abbas reported in 15 BLC(AD)191.

Mr. S.M. Asraful Hoque, the learned Deputy Attorney General appearing for the State finds it difficult to oppose the Rule in view of the decision passed by the Apex Court of the country.

We have heard the learned advocate, perused the application along with annexures. We have gone through the relevant law and the cited decision of the Appellate Division in the aforesaid case wherein it is held -

“13. Therefore, the lodgment of the FIR, submission of the charge-sheet by the Sub-Inspector Md. Rafiqul Islam and cognizance taken by the Tribunal in the present case being contrary to and in violation of the requirements of section 23(2)(3) of the Foreign Exchange Regulation Act are bad in law. From the scheme of the Foreign Exchange Regulation Act it can be said without any hesitation that the legislature wanted that any person accused of any offence for contravention of provisions of the Foreign Exchange Regulation Act etcetera should not be subjected to unnecessary harassment by the police and accordingly safe-guards are provided in the Act. But in the instant case the police officer has in contravention of the safe-guards provided in section 23 of the Foreign Exchange Regulation Act initiated the present criminal case against the accused respondent by lodging the first information report treating the alleged offence under the said Act

as a normal Penal Code offence. The letter dated 19.06.2007 of the Bangladesh Bank issued at a date subsequent to the lodgment of the first information report cannot be construed to have accorded the requisite authority to the informant to lodge the present criminal case against the accused respondent under the Foreign Exchange Regulation Act.

14. Since the proceedings of the aforesaid criminal case under challenge have not been validly initiated in terms of the requirement of section 23 of the Foreign Exchange Regulation Act the same (proceedings of the aforesaid criminal case) are liable to be quashed.”

In such view of the matter we do not find any reason to revert back the case to the High Court Division to decide the matter again. We find substance in the submission of the learned advocate for the petitioner.

Resultantly, the rule is made **absolute**.

The proceedings of the Foreign Exchange Regulation Tribunal Case No. 01 of 2018 arising out of Tahirpur Police Station Case No. 05 dated 10.01.2018 corresponding to G.R. No. 05 of 2018

(Tahir) under section 23 of the Foreign Exchange Regulation Act, 1947, now pending in the Court of Foreign Exchange Regulation Tribunal, Sunamgonj is hereby quashed.

Communicate the judgment and order at once.

**Ashish Ranjan Das, J:**

I agree.

**Ziaul Karim**  
**Bench Officer**