

Present :
Mr. Justice Md. Jahangir Hossain
And
Mr. Justice Ashish Ranjan Das.

Criminal Misc.No. 2442 of 1998

In the matter of:

Nasreen and others
..... Petitioner
-Versus-
The State
..... Opposite party.
None appears
.....For the petitioner.
Mr. S. M. Golam Mostofa, D.A.G.
Mr. Md. Anichur Rahman, A.A.G.
... For the State.

Heard on: 03-04.11.2021, 07.11.2021

Judgment on: 11.11.2021

Ashish Ranjan Das, J:

Rule for quashment under Section 561-A Code of Criminal Procedure (for short the Code) was issued on 07.01.1997 at the instance of the complainant petitioner Nasreen and others in the following terms:

*“Record of the case need not be called for.
Let a Rule be issued calling upon the opposite parties to show cause as to why the proceedings in C.R. Case No. 1564 of 1997 now pending in the*

Court of Metropolitan Magistrate, Dhaka should not be quashed and / or pass such other or further order or orders as to this court may seem fit and proper.”

None appeared to press the rule.

Although the matter has been occurring in the daily cause list over the period.

The learned Assistant Attorney General opposes the rule. We have perused the materials on record annexed to the file.

Short facts relevant for the purpose that could be gathered from the file are that Tae Hung Packeging is a private limited company registered in Bangladesh Companies Act, 1994, wherein the accused petitioner No. 1 Nasreen is an employee of a company working as a receptionist and accused No. 2, 3 have been directors of the company while its chairman stays in South Korea. The allegation is that the chairman of the company from South Korea sent certain valuable documents including a bank guarantee of one million U.S. Dollars through an international courier the D.H.L. Bangladesh. As an employee in charge accused No.1 Nasreen the receptionist received the packet that could not

be subsequently traced. The company conducted an inquiry and it was found that the receptionist Nasreen had duly handed over the packet to accused No.2 Nizam Chowdhury, a director of the company who also handed over the packet to accused No. 3, Byung Dok Ko another director of the company who did not deposit the packet to the company. Saying this another director of the company Miss OK Kyung Oh filed a petition of complaint before the Chief Metropolitan Magistrate, Dhaka that was pending in the Court of Mr. Narayan Chandra Das Metropolitan Magistrate, Dhaka. No investigation or inquiry was held rather the learned Magistrate upon examining the foreigner complainant under section 200 of the Code of Criminal Procedure straightway took cognizance of the proceeding. Hence is this application for quashment.

The gist of the allegation is that the chairman of the managing company in Bangladesh was staying in South Korea ie; in the seat of the mother company who sent some valuable documents including a bank grantee of taka one million U.S. Dollars by through D.H.L. But the parcel could not be subsequently traced. The company held an enquiry and it was found that the receptionist Nasreen as usual delivered the parcel to the next man accused No.2 Nizam Chowdhury, a

director of the company who also delivered the same to the accused No. 3, Byung Dok Ko, the Korean director of the company. Since there was no investigation or enquiry regarding the truth or falsehood of the allegation the verbal statement of the complainant opposite party No.2 would be the only material to adjudicate the charge. It also appears that the complainant and the accused No. 2,3 are director's of the company. So it is understood as the learned Deputy Attorney General pointed out that this might have been a conflict amongst the director's of the company. But as the case is proceeding there was no material regarding the fact that having some parcel containing valuable document was received by receptionist Nasreen or by the accused No. 2,3 who happened to be the director's of the company. So we see hardly any prospect of criminal prosecution into the matter. Firstly according to the complaint itself there is no evidence that any such parcel came from Korea nor there was any evidence that accused No. 1, 2 or 3 have actually received it whatever materials the parcel could have contained. So, culpably these has been a vague allegation and its truth or falsehood was not investigated and it would be rather an abuse of the process if the same is allowed to proceed. We do not see any prospect of criminal prosecution of this

wholesale allegation.

As a result, the rule is made absolute.

The criminal proceeding being C.R. Case No.1564 of 1997 attraction 406/420 of the Penal Code pending in the court of Metropolitan Magistrate, Dhaka is hereby quashed.

Ad-interim order passed earlier is hereby recalled and vacated.

Communicate the judgment and Order to the court below at once.

Justice Md. Jahangir Hossain

I agree.

Md. Atikur Rhaman, A.B.O