

In The Supreme Court of Bangladesh  
High Court Division  
(Criminal Miscellaneous Jurisdiction)

**PRESENT:**

**MR. JUSTICE ABU TAHER MD. SAIFUR RAHMAN**  
**AND**  
**MR. JUSTICE KHANDAKER DILIRUZZAMAN**

**CRIMINAL MISCELLANEOUS CASE NO. 11620 OF 2022**

Khandakar Mehmood Alam alias Nadim  
.....Accused petitioner

-Versus-

The State and another.....Opposite parties  
None appears.....For the accused petitioner  
Mr. Mohammad Ali, Advocate  
.....For the opposite party No. 2  
Mr. Md. Ahsan Ullah, AAG with  
Mr. Mehadi Hasan (Milon), AAG and  
Ms. Aleya Khandker, AAG  
.....For the state

**Heard on: 02.08.2023, 03.08.2023 and 17.08.2023**

**Judgment on: The 18<sup>th</sup> of October, 2023**

**ABU TAHER MD. SAIFUR RAHMAN, J.**

This Rule was issued on an application filed by the accused petitioner under section 561A of the Code of Criminal Procedure calling upon the opposite parties to show cause as to why the judgment and order dated 24.10.2021 passed by the learned Metropolitan Sessions Judge, Dhaka in Criminal Revision No. 730 of 2021 rejecting the same and thereby affirming the order dated 23.09.2021 passed by the Additional Chief Metropolitan Magistrate, Court No. 2, Dhaka in C.R. Case No. 1007 of 2012 rejecting the application filed by the petitioner for

discharge and thereby framing a charge against the petitioner under sections 467/468/469/471/109 of the Penal Code 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 the Rule, the Court was pleased to stay all further proceedings of the aforesaid C.R. Case No. 1007 of 2012 so far it relates to the accused petitioner for 6 (six) months which was subsequently extended till to disposal of the Rule.

For disposal of the Rule, the relevant facts may briefly be stated as follows:

That the opposite party No. 2, Social Islami Bank Limited as complainant filed a C.R. Case No. 1007 of 2012 against the accused petitioner under sections 467/468/469/471/420/406/109 of the Penal Code alleging inter alia that the accused No. 1 has obtained the loan facilities amounting to **Tk. 15,00,00,000/-** (Taka Fifteen crore) from the complainant bank vide its sanctioned letter dated 20.04.2010 wherein the accused petitioner was remains as a mortgagor of the said loan. Subsequently, it was discovered that the accused petitioner submitted some forged deeds in favour of the complainant bank as mortgaged deeds. Hence, the aforesaid case was filed against the accused petitioner and others under sections 467/468/469/471/420/406/109 of the Penal Code. Thereafter,

the accused petitioner appeared before the Court below and obtained bail. Later on at the time of framing charge, the accused petitioner filed an application before the trial Court under section 241A of the Code of Criminal Procedure for discharging him from the aforesaid case which was rejected and thereby framing a charge against the accused petitioner under sections 467/468/469/471/420/406/109 of the Penal Code vide its order dated 23.09.2021. Being aggrieved the accused petitioner preferred a criminal revision No. 730 of 2021 before the Metropolitan Sessions Judge, Dhaka which was also discharged vide its judgment and order dated 24.10.2021. As against the said judgment and order the accused petitioner preferred this application before this Court under section 561A of the Code of Criminal Procedure for quashing the impugned judgment and order dated 24.10.2021 and obtained the instant Rule and stay.

None appears for the accused petitioner to support the Rule.

However, the accused petitioner has stated in his application that the accused petitioner was not the signatory/maker/author or beneficiary of the alleged forged documents and as such the order of framing a charge against the accused petitioner is liable to be set aside.

As against this, Mr. Mohammad Ali, the learned Advocate for the opposite party No. 2 submits that as per

petition of complaint there is a specific allegation against the accused petitioner and as such the accused petitioner has no ground to invoke the provision of section 561A of the Code of Criminal Procedure.

Heard the submission of the learned Advocates of both sides and perused the petitioner's application along with other materials on record thoroughly.

On perusal of the petition of complaint it transpires that there is a prima facie case against the accused petitioner. Whether the documents in question is a forged documents or not is a question of fact which cannot be decided at this stage under the jurisdiction of section 561A of the Code of Criminal Procedure.

Under the aforesaid facts and circumstances of the case and the reasons as stated above, we do not find any substances of this Rule

As a result, the Rule is discharged.

The order of stay granted earlier by this Court is hereby stand vacated.

Communicate this judgment and order to the concerned Court below at once.

**Khandaker Diliruzzaman, J:**

I agree

