

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. 9244 OF 2004**

Mizanur Rahman Bhuiyan and another  
.....Accused-petitioners

-Versus-

The State and another.....Opposite parties  
None appears.....For the accused petitioners  
None appears.....For the opposite party No. 2  
Mr. Imran Ahmed Bhuiyan, DAG with  
Mr. Mehadi Hasan (Milon), AAG and  
Ms. Aleya Khandker, AAG  
.....For the state

**Judgment on: The 10<sup>th</sup> of August, 2023**

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

This Rule was issued on an application filed by the accused petitioners under section 561A of the Code of Criminal Procedure, 1898 calling upon the opposite parties to show cause as to why the proceedings of C.R. Case No.P-2343/2003 under sections 420/406 of the penal Code now pending in the Court of Chief Metropolitan Magistrate, Dhaka 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. P-2343/2003 for **3 (three)** months from the date which was time to time extended by the Court.

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

That the opposite party No. 2 as complainant filed a C.R. Case No. 2343 of 2003 against the accused petitioner under sections 420/406 of the Penal Code alleging inter alia that the complainant purchased one Diganta Car from the accused petitioners, the owner of the Meghna Automobiles Limited. At the time of purchasing the car, the accused petitioners paid **Tk. 4,75,000/-** (Taka Four lac and Seventy-five thousand) and the rest of **Tk. 4,00,000/-** (Taka Four lac) was arranged from the Dutch Bangla Bank as loan. Accordingly, all the documents including the registration of the said car stand in the name of the said bank. As per contract, the accused petitioners did not provide any service to the complainant. Hence, the aforesaid case was filed against the accused petitioners under sections 420/406 of the Penal Code.

None appears for the accused petitioners to support the Rule.

However, the accused petitioners have stated in their application that there is no specific allegation against them. The instant proceeding was initiated with a co-lateral purpose which is liable to be quashed.

Mr. Imran Ahmed Bhuiyan, the learned Deputy Attorney General for the opposite party No. 1 submits that as per the petition of complaint, there is a specific allegation against the accused petitioners, and as such the accused petitioners have no ground to invoke the provision of section 561A of the Code of Criminal Procedure. Accordingly, the instant Rule is liable to be discharged.

No one appears for the complainant opposite party No. 2.

Heard the submissions of the learned Advocate for the opposite party No. 1 and perused materials on record thoroughly.

On perusal of the petition of complaint, it transpires that there is a prima facie case against the accused petitioners. We have further observed that the charge is not framed against the accused petitioners as

yet. Moreover, the contention as raised by the accused petitioners is a matter of fact which cannot be decided at this stage under the jurisdiction of section 561A of the Code of Criminal Procedure.

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

As a result, the Rule is discharged.

The trial Court is hereby directed to proceed with the case expeditiously in accordance with law.

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

Communicate this judgment and order at once.

**Khandaker Diliruzzaman, J:**

I agree