

Non-Reportable

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPEAL NO...../2023
[ARISING OUT OF SLP(CRL.) NO.3212/2023]**

Neville Dadi Master @ Neville Master ...Appellant(s)

VS.

The State of West Bengal & Anr. ...Respondent(s)

J U D G M E N T

DIPANKAR DATTA, J.

Leave granted.

2. On the basis of a complaint dated 9th August, 2017 lodged by the second respondent, an F.I.R. of even date under sections 419/353/447/120B of the Indian Penal Code ("IPC", hereafter) read with section 12 of the Prevention of Corruption Act ("P.C. Act, hereafter) was registered against the appellant. Investigation that followed culminated in a report (charge-sheet) being filed under section 173(2) of the Code of Criminal Procedure ("Cr. P.C.", hereafter). Since the offence under section 12 of the P.C. Act is exclusively triable by the Special Court,

the case was accordingly committed to such court by the relevant Additional Chief Judicial Magistrate ("ACJM", hereafter). The appellant then applied for discharge, which was allowed in part. The Special Court, though held that there was no ground for framing charge under sections 353/120B of the IPC and section 12 of the P.C. Act, was satisfied of there being *prima facie* material to proceed against the appellant under sections 447/419 of the IPC; hence, by an order dated 19th September, 2022, the Special Court transmitted the case to the court of the ACJM. This order of the Special Court was challenged by the appellant in an application under section 482 of the Cr. P.C. before the Calcutta High Court. For the reasons contained in his order dated 2nd January, 2023, a learned Judge has dismissed the application.

3. The challenge in this civil appeal is to the said order of dismissal.

4. Having regard to the order that this Court proposes to pass, it is considered inessential to refer to who the appellant and the second respondent are and also as to what transpired between them on the relevant date triggering the complaint dated 9th August, 2017 lodged by the latter.

5. Mr. Luthra learned senior counsel for the appellant was heard at length on 21st March, 2023. The contentions raised by him on behalf of the appellant on the merits of the orders passed by the Special Court and the High Court did not impress this Court. However, since sections 447 and 419 of the IPC make the offences thereunder compoundable by the person in possession of the property trespassed and cheated, respectively, Mr. Luthra fervently urged the Court to allow the appellant to meet the second respondent and tender his unqualified apology for the conduct complained of in the aforesaid complaint.

6. The prayer of Mr. Luthra was granted. The appellant was directed to meet the second respondent in person and tender unqualified apology. The second respondent was required to report to the Registry of the Calcutta High Court regarding his satisfaction of the nature of apology tendered by the appellant.

7. A report dated 31st March, 2023 of the second respondent has since been received and placed on the record. Reading of such report reveals tendering of unqualified apology by the appellant to the second respondent for his conduct and remorse being expressed in

regard thereto. It is also reported that the second respondent is "*satisfied with such tender*".

8. Mr. Luthra has submitted that it was an act of indiscretion on the part of the appellant; however, having realized that he has committed a grave mistake for which no one else is to be faulted, he is now genuinely regretful and undertakes not to repeat such conduct in future. He, accordingly, prayed that this Court may direct closure of the proceedings upon setting aside the orders of the Special Court and the High Court.

9. Mr. Grover, learned senior counsel appearing for the first respondent, in his usual fairness, has left the matter to the discretion of the Court.

10. In the light of the aforesaid statement made by Mr. Luthra, which is treated as an undertaking of the appellant to this Court, and bearing in mind that offences under sections 447 and 419 of the Cr. P.C. are compoundable coupled with the satisfaction reported by the second respondent, this Court is of the considered view that no useful purpose would be served in subjecting the appellant to stand trial. Having regard to the special facts and circumstances of this particular case and to give a quietus to the matter, closure of G.R. Case No. 2199 of 2017 which

the ACJM is presently seized of against the appellant is warranted upon setting aside of the orders dated 19th September, 2022 and 2nd January, 2023. It is ordered accordingly. The appellant is discharged of the bail bond.

11. The appeal is allowed, without any order for costs.

12. Before parting, this Court sounds a note of caution for the appellant to be careful in future to avoid recurrence of similar incident and at the same time records a note of appreciation for the second respondent for not precipitating the matter further. After all, 'to err is human but forgiving is divine'.

13. A copy of this order shall be forwarded to the second respondent.

.....J.
[S. RAVINDRA BHAT]

.....J.
[DIPANKAR DATTA]

NEW DELHI;
19th MAY, 2023.