

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 2346 of 2022

**Stephen Anthony @ David & Ors.
Vs.
The State of West Bengal**

**For the petitioners : Mr. Arka Pratim Chowdhury, Adv.,
Mr. Sunny Nandy, Adv.,
Ms. Riya Das, Adv.,
Mr. Subha Pathak, Adv.**

Judgement on : 10.08.2022.

Bibek Chaudhuri, J.

The petitioners have filed the instant revision praying for quashing of the entire proceedings being Cyber Case No. 35/2022 pending before the Learned Chief Metropolitan Magistrate, Kolkata under Sections 120B/419/420/465/467/468/471 of the Indian Penal Code and Sections 66/66C/66D/84B/43 of the Information Technology Act.

It is pertinent to mention at the outset that the case is at the stage of investigation.

The aforesaid Cyber Police Station Case No. 35/2022 dated 25th March 2022 was initiated on the basis of a *suo motu* complaint filed by the Inspector of Police, Anti Rowdy Section,

Detective Department, Calcutta to the Officer-in-Charge, Cyber Police Station, Kolkata alleging, *inter alia*, that a fake and fraudulent call center under the name and style of "Concept Infotech" was being run from the 4th Floor of premises no. 14C/114B, Prince Anwar Shah Road, Kolkata. During raid, the *de facto* complainant and other members of raiding party found eight FIR named persons involved in running the said call center. They were duly arrested. Certain documents, namely print out of script, print out of different leads having phone number and name and address of different clients of Australia, print out a target sheet having date, amount and name of the caller, print out of one electronic payment of HSBC having particulars of beneficiaries who is a resident of United Kingdom and other documents and electronic materials were seized by the complainant.

It is submitted by the Learned Advocate for the petitioners that they are not named in the FIR. Petitioner no. 2 is a cloth merchant having his business in Mumbai. Other petitioners are the employees under petitioner no. 2. They have been implicated in this case on the basis of a statement allegedly made by another accused who was not named in the FIR and subsequently arrested.

It is further submitted by the Learned Advocate for the petitioners that the petitioners were arrested on the basis of the statement of co-accused which is not admissible against them. Secondly, nothing was seized from the petitioner. Therefore, further investigation may be quashed as against the petitioners.

The case is at the stage of investigation. It is needless to say that in respect of an offence under the Information Technology Act, the offence may be committed sitting in a remote area away from the alleged place of occurrence. Complicity of the petitioners in respect of committing any of the alleged offences can only be *prima facie* established on due investigation. Therefore, I do not find any reason to pass any order quashing investigation of the case.

However, the Investigating Officer of Cyber Case No. 35/2022 is directed to take all endeavour to conclude investigation within the timeframe as stated under Section 167 of the Code of Criminal Procedure.

The petitioners are at liberty to hand over a copy of the revisional application to the Investigating Officer for consideration of their point of view in respect of the investigation and entire circumstances should be taken into consideration by the Investigating Officer to ascertain the involvement of the petitioners.

With the above direction, the instant revision is **disposed of.**

(Bibek Chaudhuri, J.)