

22.09.2021
item No.177
n.b.
ct. no. 34

**CRR 2713 of 2016
with
CRAN 709 of 2018**

(via video conference)

**Smt. Anita Dattani
Vs.
Mr. Nitesh Thakkar & Ors.**

Mr. Anirban Mitra,
Mr. Amit Halder
.....for the petitioner.

Mr. Subhamoy Bhattacharya,
Mr. P. Karan Singh,
Mr. Shankar Mukherjee,
Ms. Ishani Kundu,.. for Private O.P.
Nos.1,2,3.

The records of the revisional application reflect that by an order dated January 2, 2018 a Division Bench of this court was pleased to dismiss the revisional application, while dismissal of the revisional application the co-ordinate bench observed as follows:

“On perusal of the order impugned, I find that the learned Magistrate has applied his mind and had referred to the partnership agreement para 10, which speaks that partners are entitled to withdraw the money for their personal requirement from the said firm. So, the allegation levelled against the present opposite party no.1 and 2 does not hold water.

In respect of other part, learned counsel appearing on behalf of the petitioner contended that opposite party no 1 and 2

has misappropriated by selling stock to Shikha Car and Uma Motors. On being asked, he produced no document ion support of his contention. Naturally, I do not find any irregularity in the impugned order passed by the learned Magistrate.”

I find that consequently recalling application was taken out and a co-ordinate Bench was pleased to adjudicate upon the same on September 19, 2018 thereby condoning delay of 54 days for preferring the application for recalling of the said order.

Mr. Mitra, learned advocate appearing for the applicant/petitioner submits that the learned lawyer who conducted the case was not informed properly and as such the revisional application could not be adjudicated in its true and proper perspective.

I am not inclined to interfere or comment on the legality or illegality of an order passed by a co-ordinate Bench. The settled principle of law is that under Section 362 of the Code of Criminal Procedure except typographical or clerical mistake, no court of law exercising jurisdiction under the Code of Criminal Procedure would entertain any application in the form of review of an earlier order.

Having regard to the submissions made by the Ld. Advocate for the petitioner, I am of the view, that no interference is called for in respect of modification application being CRAN 709 of 2018. Accordingly, CRAN 709 of 2018 is dismissed.

(Tirthankar Ghosh, J.)