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**CRR 1346 of 2020
IA No. CRAN 1 of 2020
(Via Video Conference)**

**Rita Shit & Anr.
-vs-
State of West Bengal & Anr.**

Mr. Dipankar Pal,
Mr. Tirthankar Mukherjee,
Ms. Madhurima Sarkar.
...For the Petitioners.
Mr. Saibal Bapuli,
Mr. Arijit Ganguly.
For the State.

Affidavit-of-service submitted before this Court reflects that service has been effected upon the opposite parties. None has appeared on behalf of the opposite party No. 2 but the opposite party No.1 State is being represented by the learned advocate Mr. Saibal Bapuli.

The petitioners have prayed for quashing of the FIR in so far as the offence alleged under Section 24 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is concerned which offence has been registered with Donmjur P.S., F.I.R No. 168/2020 dated 21.03.2020 under Sections 341/325/506/34 IPC.

The ground inter alia, taken by the petitioners is that the FIR alleging offence under Section 24 of the said Act, is not maintainable in the eye of law.

My attention is invited to the provisions of the offence alleged under Section 24 of the said Act which is provided under chapter 6 of the Act for the procedure for trial. It relates to exposure and abandonment of senior citizen which

provisioned that whoever having the care or protection of senior citizen, leaves such senior citizen in any place with the intention of wholly abandoning such senior citizen, shall be punishable with imprisonment of either description for a term which may extend to three months or fine which may extend to five thousands rupees or with both. The offence are no doubt cognizable in nature.

The provision as embodied under Section 7 deals with constitution of Maintenance Tribunal which reads thus:-

“7. Constitution of Maintenance Tribunal—1) The State Government shall within a period of six months from the date of the commencement of this Act may, by notification in the Official Gazette, constitute for each Sub-Division one or more Tribunals as may be specified in the notification for the purpose of adjudicating and deciding upon the order for maintenance under section 5.

2) The Tribunal shall be presided over by an officer not below the rank of Sub-Divisional Officer of a State.

3. Where two or more Tribunals are constituted for any area the State Government may, by general or special order, regulate the distribution of business among them.”

In conjoined reading of Section 24 and Section 7 of the Act it is well understood that it is the Maintenance Tribunal which has power to try such offence or the offences under the said Act and the tribunal is presided over by the officer not below the rank of Sub-Divisional Officer of a State. Therefore, the offence punishable under Section 24 is not triable by judicial Magistrate or any Chief Judicial Magistrate.

Therefore, the offence under Section 24 of Act 2007 has to be segregated from the FIR under reference and the learned CJM will refer the offence alleged to the Maintenance Tribunal as constituted under Section 7 of the Act.

Accordingly, the revisional application being CRR 1346 of 2020 and the connected application being CRAN 1 of 2020 are disposed of.

(Shivakant Prasad, J.)