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C.R.R. 854 of 2012

In re: {L. N. Chanyal (Narayan Ram Chanyol & Ors)}

Re: An application under Sections 397/401/482 of the Code of Criminal Procedure, 1973;

The present revisional application has been preferred challenging the proceedings being complaint case No. C-10307 of 2011 pending before the learned Judicial Magistrate, 3rd Court at Alipore including the order dated 29th October, 2011. The learned Magistrate was pleased to issue process against the present petitioners for alleged commission of offence under Sections 420/120B/448/506 read with Section 34 of the Indian Penal Code. The present petitioners happen to be officers of Allahabad Bank who have been implicated in the complaint case. Further the order dated 29th October, 2011 passed by the learned CJM, Alipore reflects refusal of the prayer under Section 156(3) of the Code of Criminal Procedure.

Having regard to the fact that the petitioners as a whole have been implicated while they were acting in their official capacity in a Nationalised Bank, I am of the view that the cognizance so taken by the learned Magistrate by its order dated 29th October, 2011 is beyond the scope of the provisions of law. As such the order dated 29th October, 2011 and all subsequent orders passed thereby implicating the

present petitioners in connection with the complaint case without invoking the relevant provisions of Section 197 of the Code of Criminal Procedure is bad in law.

Accordingly, all further proceedings of complaint case No. being complaint case No. C-10307 of 2011 pending before the learned Judicial Magistrate, 3rd Court at Alipore including the order dated 29th October, 2011 is quashed/set aside.

Pending application, if any is consequently disposed of.

Interim order, if any is hereby vacated.

The complainant/opposite party however, would be at liberty to pursue the complaint once he is able to obtain sanction from the competent authorities for prosecuting the petitioners.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)