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C.R.R. No.965 of 2017
IA No. CRAN 2 of 2017 (Old CRAN 2261 of 2017)
CRAN 4 of 2017 (Old CRAN 4828 of 2017)
(Via Video Conference)

In Re: An application under Section 401 read with Section 482 of the
Code of Criminal Procedure, 1973.

Ashis Dey
Versus
The State of West Bengal and Ors.

Mr. Nilanjan Bhattacharjee,
Mr. S. Chowdhury.
...for the petitioner.

Mr. Supriya Chattopadhyay,
Ms. Saswati Adhikary.
...for the opposite party nos.2 to 6.

Mr. Arijit Ganguly,
Mr. Sanjib Kumar Dan.
...for the State.

Mr. Nilanjan Bhattacharjee, learned advocate appearing for the petitioner has challenged the order dated 29th December, 2016 passed in a proceeding under Section 133 of the Code of Criminal Procedure by the learned 2nd Sub-Divisional Magistrate, Kalyani, Nadia in MP-246(A)/16. As has been contended by the learned advocate for the petitioner that an absolute order has been passed without even appearance or giving an audience to the petitioner.

Learned advocate for the opposite party nos.2 to 6 submits that in course of enquiry proceedings which were conducted, the petitioner participated and on the basis of the same, enquiry report was prepared.

Having regard to the fact that no audience was granted to the petitioner as records do not reflect that any summons were issued or any show-cause notice was issued prior to the passing of the order dated 29.12.2016 which affects the right of the petitioner, I am of the view that the said order requires reconsideration.

Be that as it may, the learned Sub-Divisional Magistrate, Kalyani, Nadia, would first consider whether such passing of the order would, in fact, infringe domain of the civil court.

As a measure before the learned Sub-Divisional Magistrate reconsiders the order dated 29.12.2016 is set aside.

Both the parties are directed to be present before the learned Sub-Divisional Magistrate, Kalyani, Nadia, on 15th September, 2021. The learned Magistrate thereafter would fix scheduled of dates and dispose of the same as early as possible.

Accordingly, CRR 965 of 2017 is partly allowed.

Pending applications, if any, are consequently disposed of.

Interim order, if any, is hereby vacated.

Department is directed to send back the records before the learned Sub-Divisional Magistrate, Kalyani, Nadia, within a period of seven days from date.

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

(Tirthankar Ghosh, J.)