

26.07.2021
(Item no.133 of Ct.35)
Ct. No.34
CHC

C.R.R. No.1474 of 2021

(Via Video Conference)

In Re: An application under Sections 397/401 of the Code Criminal Procedure, 1973 read with Section 482 of the Code of Criminal Procedure, 1973.

AND

In the matter of:-

Rejaul @ Rajiv Sardar
... petitioner

Mr. Sourav Chatterjee,
Mr. Gopal Halder,
Mr. Sagnik Mukherjee
...for the petitioner

Mr. Arijit Ganguly,
Mr. Sandip Chakraborty
...for the State

Mr. Angshuman Chakraborty,
Mr. Shashanka Shekhar Saha
...for the de facto complainant/o.p. no.2

Memo of evidence so submitted be also kept with the record.

The order dated 13.07.2021 passed by the learned Additional Chief Judicial Magistrate, Alipore, South 24 Parganas, in B.G.R. Case No.1564 of 2021 arising out of Bishnupur Police Station Case No.245 of 2021 dated 22.04.2021 is subject matter of challenge in this revisional application.

Mr. Chatterjee, learned advocate appearing for the petitioner is aggrieved by the fact that no service was received and as such he could participate in the hearing process before the learned Magistrate.

Learned advocate appearing for the de facto complainant also could not produce any document reflecting that service was effected so far as the petition which was preferred pursuant to the order dated 30.06.2021 passed in W.P.A.10659 of 2021 is concerned.

On an overall view of the order so passed by the learned A.C.J.M, I am of the opinion that arrest, recovery, seizures in a case relating to investigation are the exclusive domain of the investigating agency. As there has been an order of monitoring by a Single Bench of this Hon'ble Court while exercising its jurisdiction under Article 226 of the Constitution of India, I am of the view that the learned Magistrate can supervise regarding the progress and at regular intervals call for the reports and the progress of the investigation but the mode and manner in which the investigation is to be conducted is to be decided by the Investigating Officer himself. At this stage, when the investigation is under progress, I am of the view that in case any observation is made by this Court either parties to the case may be affected.

As such, I direct that the Investigating Officer would for the purposes of investigation assess the requirement of addition of the sections, statements to be recorded under Section 164 of the Code of Criminal Procedure of the witnesses and see whether arrest is required for the purpose of investigation for recovery of ransom money as stated by the learned Magistrate. The exclusive domain obviously is with the Investigating Officer for the purposes of the investigation. As such, Investigating Officer will not be swayed by any order passed or any order in the form of an advice being made

by the learned Magistrate. However, appropriate report from time to time should be submitted before the learned Magistrate regarding the steps taken by the Investigating Officer for arriving at the stage of Section 173 of the Code of Criminal Procedure.

With the aforesaid observations C.R.R.1474 of 2021 is disposed of.

Pending application, if any, is consequently disposed of.

C.D. be returned to the learned advocate appearing for the State.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)