

23.09.2021
 Ct No. 35
 D/L 43
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C.R.R. 1865 of 2021
(Via Video Conference)

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

In re : **Subhash Halder,**

... Petitioner

Mr. Sanjay Kumar Sarkar,

... for the petitioner

Mr. Rana Mukherjee,
 Ms. Sukanya Bhattacharya,
 Md. Kutubuddin,

... for the State

The petitioner obtained an *ex parte* order on July 2, 2021 under Section 144(2) of the Code of Criminal Procedure, 1973, from the Executive Magistrate, Diamond Harbour. The opposite party no. 2 challenged the said order before the learned Additional Sessions Judge, Diamond Harbour. The learned Additional Sessions Judge by the order impugned dated July 20, 2021, stayed the operation of the order passed by the learned Magistrate in the Court below till November 10, 2021, and fixed the next date for hearing on the same date.

It has been submitted by Mr. Rana Mukherjee, learned advocate for the State that the initial order passed by the learned Magistrate in the Court below is not sustainable in the eye of law since the learned Magistrate without drawing up a proceeding

under Section 144(2) of the Code of Criminal Procedure, 1973, and recording his satisfaction as to the urgency in the matter, could not have passed the said order.

It has been submitted by the learned advocate for the petitioner that the force of the order passed by the learned Magistrate has already expired.

Since the order impugned in this application is interim in nature, I am not inclined to enter into the merits of the case.

The revisional application is disposed of with a direction upon the learned Additional Sessions Judge, Diamond Harbour, to dispose of the Criminal Motion No. 160 of 2021 within a period of two months from date. The parties will be at liberty to take all points available before the learned Additional Sessions Judge.

Since this order will not prejudice the opposite party no. 2, the revisional application is disposed of without serving notice to him.

With the aforesaid observations, the revisional application being **C.R.R. 1865 of 2021** is, thus, disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the petitioner upon compliance with all necessary formalities.

(Kausik Chanda, J.)