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CRR 1884 of 2021

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

In the matter of : **Shyam Kumar Baid**

..... petitioner

Mr. Suryaneel Das
....For the petitioner

Mr. Saswata Gopal Mukherji, Ld. PP
Mr. Rana Mukherjee, Ld. APP
Ms. Sukanya Bhattacharyya
.....For the State

Learned advocate for the petitioner submits that an employee of the petitioner was apprehended by the officers of the Burrabazar Police Station on August 9, 2021, and a sum of Rs.10,20,000/- was seized from him.

It is the case of the petitioner that the police had no jurisdiction to apprehend the said employee of the petitioner without there being any case registered against the petitioner and the seized money belonged to the petitioner.

Mr. Saswata Gopal Mukherji, learned Public Prosecutor submits that, the petitioner was apprehended in terms of Section 41 of the Code of Criminal Procedure, 1973, on the basis of a source information and thereafter, he was produced before the learned Magistrate in the Court below.

Before the learned Magistrate the Income Tax Department filed an application on August 23, 2021, for handing over the seized amount in order to verify under Section 132A of Income Tax Act, 1961; the learned Magistrate fixed the hearing of the said application on September 1, 2021.

The petitioner also on August 26, 2021, filed an application for handing over the seized money in his favour. The learned Magistrate fixed the hearing of the said application also on September 1, 2021. On September 1, 2021, the learned Magistrate adjourned the hearing and fixed the next date on September 15, 2021.

It further appears that the learned Magistrate in the Court below on September 6, 2021, in absence of the petitioner, directed the seized money to be handed over to the Income Tax Department.

Mr. Mukherji submits that the investigating agency, in terms of the said order dated September 6, 2021, had handed over the said money to the Income Tax Department.

I am of the opinion that when the application of the petitioner as well as the application of the Income Tax Department was fixed for hearing on September 15, 2021, there was no occasion on the part of the learned Magistrate to take up the application filed by the Income Tax Department on September 6, 2021, and pass an order to hand over the said money to them without hearing the petitioner.

In view of the above, the order dated September 6, 2021, passed by the learned Magistrate in the Court below, is set aside. The Income Tax Department will hold the money for the time being without prejudice to the rights and contentions of the parties.

The learned Magistrate in the Court below will hear out the application filed by the Income Tax Department on October 23, 2021, and the application filed by the petitioner on August 26, 2021, together on the next date of hearing fixed on November 3, 2021, and pass a reasoned order.

The application being **CRR 1884 of 2021** is, thus, disposed of.

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

(Kausik Chanda, J.)