

D/L 181.
September
22, 2021
Bpg.

C.R.R. No.2162 of 2017
(Via Video Conference)

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

Mohammad Imranuddin Siddique
Versus
Jharna Das and Anr.

Mr. Sabir Ahmed,
Mr. Shraman Sarkar,
Mr. Apan Saha,
Mr. Mujibar Ali Naskar,
Mr. S. Sultana.
...for the petitioner.

Mr. Kollol Mondal,
Mr. Krishan Ray,
Ms. Amrita Chel,
Mr. Souvik Das,
Ms. A. Banerjee.
...for the opposite party no.1.

Affidavit-in-opposition has been filed on behalf of the
opposite party no.1 contending that the examination under Section
200 Cr. P.C. which was recorded by the learned Magistrate on
26.04.2007 was incorrectly recorded so far as some of the
contentions are concerned.

Mr. Ahmed, learned advocate appearing for the petitioner
submits that by an order dated 29.05.2017, the learned Judicial
Magistrate, 2nd Court, Barrackpore was pleased to issue search
warrant. The order dated 29.05.2017 was passed after the
examination of the complainant under Section 200 of the Code of
Criminal Procedure was over and the learned Magistrate relied upon

the petition of complaint, the examination of the complainant as also the application of the complainant for issuing search warrant and thereafter allowed the prayer of the complainant.

In such circumstances, I am of the view that the order dated 29.05.2017 is to be set aside as the complainant is required to be examined afresh under Section 200 of the Code of Criminal Procedure. Consequently, I direct the learned Judicial Magistrate, 2nd Court, Barrackpore to conduct the examination of the complainant under Section 200 of the Code afresh and also consider the application for issuing search warrant only after the examination of the complainant under Section 200 is over.

Needless to state that this Court has not entered into the merits of the case and the parties will be at liberty to canvas their grievances before the learned Magistrate at the appropriate stage. The learned Magistrate will abide by the chronology as directed above.

The complainant is directed to appear before the learned Judicial Magistrate, 2nd Court, Barrackpore on 10th November, 2021 when the learned Magistrate will fix a date for examination under Section 200 of the Code of Criminal Procedure. Needless to state that the whole exercise regarding Sections 203/204 of the Criminal Procedure Code as also Section 97 of Criminal Procedure Code should be completed by 31st December, 2021.

With the aforesaid observations, CRR 2162 of 2017 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

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

(Tirthankar Ghosh, J.)