

AD. 19.
September 17, 2021.
MNS.

C.R.A. No. 567 of 2019

(Via Video Conference)

**Radha Nath Nandy
Vs.
The State of West Bengal and others**

Mr. Radha Nath Nandy

... appellant in person.

Mr. Ayan Bhattacharjee,
Mr. Cedric Fernandez,
Mr. Apalak Basu

...for the respondent no. 2 and 3.

Mr. Sabyasachi Banerjee

...for the respondent no. 4.

At the inception, an objection as to maintainability of the appeal is taken by learned counsel for the respondents.

It is contended by the respondents that the present appeal is not maintainable before this Court against an order passed under Section 340 of the Code of Criminal Procedure by the Additional Chief Judicial Magistrate.

The appellant, appearing in person with the leave of Court, quite competently submits before this Court that the Additional Chief Judicial Magistrate in the impugned order, clearly indicated that, since the perjury was committed allegedly before this Court in connection with CRR 3950 of 2016 (CRAN 3306 of 2017), the appellant had to approach this Court for appropriate recourse under Section 340 of the Code of Criminal Procedure.

Although the appellant seeks to contend, by relying on photocopies of several annotations and copies of judgments, that an act of perjury has to be dealt with properly by the appropriate authority, the said judgments mostly revolve around criminal contempt and the scope of perjury.

Undoubtedly, such arguments may be relevant at the appropriate juncture, if advanced before an appropriate forum, in a properly couched proceeding under the law.

However, since the appellant is appearing in person, and is supposed to be a layman in law, the scope of benefit, in my opinion, ought to be given to him despite having approached the incorrect forum with an inappropriate challenge.

There is no merit in the appeal in so far as the order impugned herein was rightly passed by the Additional Chief Judicial Magistrate, granting leave to the appellant to approach this Court under Section 340 of the Code of Criminal Procedure, as the alleged perjury/forgery was perpetrated in connection with a matter in this Court.

There is no illegality in such order. The appeal is also not maintainable directly before this court. However, unnecessarily relegating the appellant, who is appearing in person, to an appropriate forum to file an appeal would only waste further time for him, merely due to his lack of adequate legal acumen on that score.

Accordingly, C. R. A. No. 567 of 2019 is dismissed as not maintainable, without going into the merits of the allegations of perjury levelled by the appellant at all.

Liberty is given to the appellant to approach the appropriate forum with a proper application under Section 340 of the Code of

Criminal Procedure for the Court to be able to grant appropriate relief to the appellant, if the appellant is so entitled otherwise in accordance with law.

It is made clear that such appropriate application under Section 340 of the Code of Criminal Procedure shall not have any bearing with the observations made herein and, needless to be mentioned, will be heard on its own merits in accordance with law.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)