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C.R.R. No 2930 of 2019
(Via Video Conference)

The Secretary, Department of Labour,
Government of West Bengal
Versus
The State of West Bengal & Anr.

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

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

Mr. Imran Ali,
Mr. Mirza Firoj Ahmed Begg.
...for the State.

Mr. Subhasis Roy.
...for the opposite party no.2.

The subject-matter of the case relates to summons issued to the Secretary, Department of Labour, Government of West Bengal by the learned Metropolitan Magistrate, 17th Court, Calcutta in connection with Case No.C-2637 of 2006. By the said summons, the learned Metropolitan Magistrate directed that “you are requested to send the letter dated 27.03.2003, addressed to M.I.C., Labour Department and copy to you, which is lying in file No.1-E/11-2003, through a competent person and to depose”. Now, for the said purpose, the next date was fixed by the learned Metropolitan Magistrate on 11th June, 2014.

The complicity arose as the said letter could not be traced as has been contended by the petitioner before this Court and consequently the learned trial court had to exhaust the relevant provisions of law, thereby directing the personal appearance of the Secretary of the Department of Labour, Government of West Bengal.

It has been submitted that the present petitioner approached the learned sessions court for dispensing with the personal appearance, but the learned sessions court was also pleased to turn down such prayer.

Mr. Ahmed, learned advocate appearing for the petitioner has filed a supplementary affidavit before this Court affirmed on 12th August, 2021. The contents of the supplementary affidavit reflect that in spite of due diligence being exercised by the officers of the Department of Labour, Government of West Bengal, such file could not be traced out nor the letter dated 27.03.2003. Let the supplementary affidavit be kept with the record.

In view of the peculiarity of the circumstances and the admitted fact that there is existence of the letter and the letter could not be traced out from its original file as has been submitted by the learned advocate for the opposite party no.2, that the photostat copy of the letter dated 27.03.2003 is available in the records of the learned Metropolitan Magistrate, 17th Court, Calcutta, which was filed in the instant case along with the complaint be considered to be an admitted evidence. The letter dated 27.03.2003 would be marked as an exhibit along with other documents so relied upon by the complainant.

The supplementary affidavit so affirmed by the Principal Secretary, Department of Labour, Government of West Bengal on 12.08.2021 be transmitted to the court of learned Metropolitan Magistrate, 17th Court, Calcutta to be tagged along with the records of Complaint Case No.C-2637 of 2006. The supplementary affidavit will also be marked as an exhibit along with letter dated 27.03.2003 so that in future no complication arises as to why the photostat copy has been marked as an original exhibit.

In view of the complaint case being filed in the year 2006, I direct that the learned Metropolitan Magistrate would take efforts for concluding the trial within a reasonable period of time and take steps to take it to its logical conclusion.

With the aforesaid observations, CRR 2930 of 2019 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

The learned Metropolitan Magistrate will not insist on the appearance of the Secretary, Department of Labour, Government of West Bengal for the aforesaid purpose only.

The Department is directed to immediately transmit the supplementary affidavit to the concerned court as directed above.

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

(Tirthankar Ghosh, J.)

