

17.06.2021
Item no.20
Ct. No.34
CHC

**C.R.R. No.4437 of 2007
(Through Video Conference)**

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

AND

In the matter of:- Salil Bhattacharjee
... petitioner

Mr. Abhra Mukherjee,
Mr. Sauradeep Dutta
...for the petitioner

Mr. Saswata Gopal Mukherji, Ld. P.P.
Mr. Arijit Ganguly,
Mr. Sanjib Kumar Dan
...for the State

Mr. Abhra Mukherjee, learned advocate on behalf of the petitioner has an intricate question of law involved in this case. Mr. Arijit Ganguly, learned advocate who ordinarily appears for the State is directed to appear on behalf of the State and to assist this Court. His appointment may be regularized by the learned Public Prosecutor, High Court, Calcutta.

I find that by an order dated 14.11.2007, learned Additional Chief Judicial Magistrate, Alipore was pleased to take cognizance of the offences complained of in respect of a complaint case being Case No. A.C.609 of 2007. The relevant sections which was inserted in this case are Sections 341//384/392/323/447/342/427/506/504/34 of the Indian Penal Code. A perusal of paragraph 2 of the complaint reflects

that the whole of the incident occurred within the premises of Keorapukur T.O.P.

Having regard to the nature of the allegations and offences alleged being committed within the Keorapukur T.O.P. it was incumbent upon the learned Judicial Magistrate to ascertain the authenticity and first come to a conclusion as to whether the provisions of Section 197 of the Code of Criminal Procedure were required to be complied with. Learned Judicial Magistrate without assessing the same immediately proceeded to take cognizance of the offences and issued summons against the petitioner and other persons who were made accused in the case at the instant of complainant.

In view of the observation made above, the order dated 14.11.2007 is hereby set aside.

Learned A.C.J.M. Alipore is directed to assess the aforesaid allegations and thereafter come to a finding whether cognizance of the offences as alleged can be taken against the petitioner or the other accused persons and thereafter, issue summons. For the present, the order dated 14.11.2007 is set aside.

Learned A.C.J.M. Alipore would consider afresh. Accordingly, the revisional application being C.R.R.4437 of 2007 is partly allowed and all connected applications are disposed of.

The interim order, if any, is hereby vacated.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)