

01.04.2022

Item No.11
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 5 of 2020

**Nirmalya Chakroborty
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 filed in connection with Krishnaganj Police Station G.D.E. No. 435/2019 dated 29.09.2019 under Section 506 of the Indian Penal Code.

Mr. Kusal Kumar Mukherjee ... For the Petitioner.

Mr. Sudip Ghosh,
Ms. Sreyashee Biswas ... For the State.

The present revisional application has been preferred challenging NGR No. 2393/19 which was a number associated with Krishnaganj Police Station G.D.E. No. 435/2019 dated 29.09.2019 under Section 506 of the Indian Penal Code.

Record reflects that permission was sought for before the learned Magistrate on 26.07.2019 and such prayer was allowed. The contents of the said order dated 26.07.2019 is not very happily worded, but in all probability, the said order should have been an order under Section 155(2) of the Code of Criminal Procedure.

Mr. Ghosh, learned advocate appearing for the State has submitted a report prepared by the Inspector-in-Charge, Krishnaganj Police Station where it has been contended in serial No. 2 that 'no specific case has been registered'. Let the said report dated 28.03.2022 be kept on record.

This is very surprising because once an order was passed by the learned Magistrate, it was incumbent upon the Inspector-in-Charge or the Officer-in-Charge to register a police station case and thereafter proceed with the investigation as the referred case is a non-cognizable offence. No investigation can be allowed to be carried out on the foundation of the G.D. Entry. This was not the intention of the legislation nor the provisions of the Code of Criminal Procedure permit the same. If this is allowed to continue, in that case, the whole system would be jeopardized as each and every official carrying out an investigation is expected to adhere to the provisions of the Code of Criminal Procedure.

The mode and manner in which the investigation is carried out by way of an enquiry on the basis of the foundation of Krishnaganj Police Station G.D.E. No. 435/2019 dated 29.09.2019 without a formal FIR being registered under Section 154 of the Code of Criminal Procedure pursuant to the order passed by the learned Magistrate, I am of the opinion that the whole exercise which has been carried out by the police authorities are in gross derogation of the provisions of law and as such, requires interference. Accordingly, all proceedings initiated and being continued on the foundation of Krishnaganj Police Station G.D.E. No. 435/2019 dated 29.09.2019 under Section 506 of the Indian Penal Code which is pending before the learned Judicial Magistrate, 6th Court, Krishnagar, Nadia is hereby quashed.

Accordingly, the revisional application being CRR 5 of 2020 is allowed.

All pending connected applications, if any, are consequently disposed of.

The present revisional application has been allowed on the technicalities and ignorance of the police authorities while carrying out an investigation. However, this will not deter the investigating authorities to register a case, if required on the merits of the subject matter of the case.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)