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14.11.2022
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C.R.R.111 of 2021

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973;

Subir Ghosh
Versus
Laxmi Rani Biswas

Mr. Milon Mukherjee,
Mr. Biswajit Manna,
Mr. Santanu Talukder.
...for the petitioner.

Mr. Milon Mukherjee, learned senior advocate appearing for the petitioner draws the attention of this Court to the order dated 19.11.2019 wherein process was issued by the learned Judicial Magistrate, 2nd Court, Berhampore, Murshidabad in connection with C.R. No.1725 of 2014.

Learned Magistrate observed that the court was of the opinion that the case is maintainable and process be issued against all the accused persons. In a criminal case when the court issues process under Section 204 of the Code of Criminal Procedure, it is the duty of the court to come to a conclusion regarding the offence which has been made out. The same is absolutely absent in the order dated 19.11.2019 passed by the concerned Magistrate.

Accordingly, the order dated 19.11.2019 is set aside. Learned Magistrate would consider the enquiry report, if required, direct for further enquiry/investigation under Section 202 of the Code of Criminal Procedure and thereafter arrive at its opinion as to under which Sections of Indian Penal Code, offence has been made

out, if at all.

Thus, CRR 111 of 2021 is allowed.

Pending applications, if any, are consequently disposed of.

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 of all requisite formalities.

(Tirthankar Ghosh, J.)