

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

**CRR 201 of 2022
With
CRAN 2 of 2022**

**Sri Jyotirmoy Mukherjee and others
Vs.
Smt. Anjali Mukherjee and Ors.**

Mr. Prantik Gorai
Mr. Soujanya Bandyopadhyay
Mr. Kumarjit Das
Ms. Mou Saha
....for the petitioners

Mr. Satadru Lahiri
Mr. Shyamalendu Mondal
...for the opposite party

Item No.08

Heard & Judgment on: 03.11.2022

Bibek Chaudhuri, J.

The opposite party No.1 as complainant filed a Court complaint before the learned Additional Chief Judicial Magistrate, Barrackpore against the petitioners, arraying them as accused. The said complaint was sent to the First Court of the learned Judicial Magistrate at Barrackpore for enquiry and further proceeding. The complainant was duly examined under Section 200 of the Code of Criminal Procedure.

Considering the initial deposition of the complainant and documents filed by her the learned Magistrate found that the accused persons reside outside the territorial jurisdiction of this Court and he, therefore, directed the Joint Commissioner of Police (Headquarters) Barrackpore Police Commissionerate to cause an enquiry under Section 202 of the Code of Criminal Procedure in respect of the dispute as alleged by the complainant and submit a report stating veracity of the accusation made by the complainant fixing 7th February, 2022. It is pointed out by the learned advocate for the petitioner that when the case was pending for police enquiry under Section 202 of the Code of Criminal Procedure summons were issued against

the accused persons. It is also contended by him that the accused persons are not under obligation to appear before the trial Court in pursuance of the said summons as the learned Magistrate did not pass any order of issuance of summons directing the accused persons to surrender before the jurisdiction of the learned Magistrate.

The learned advocate for the opposite party No.1/complainant with all fairness admitted that summons were wrongly issued by the Court below and the same is liable to be stayed or this Court may pass an appropriate order in connection with issuance of summons.

Having considered as such, the instant revision is disposed of treating the summons issued against the petitioners/accused persons as non-est.

The learned Magistrate is directed to pass necessary order on receipt of enquiry report under Section 202 of the Code of Criminal Procedure.

The learned advocate for the petitioner submits that the allegation made by the complainant /opposite party No.1 does not disclose any criminal liability against the accused persons and the dispute is essentially civil in nature. At present, I am not

going to agitate the above issue as the petitioners have agitated the veracity of the summons received by them in connection with Complaint No.184 of 2021.

The petitioners are, however, at liberty to agitate all such points at the appropriate stage before the learned Magistrate.

With the above order, the instant revision is disposed of.

The connected application is also disposed of.

(Bibek Chaudhuri, J.)