

28.04. 2022
item No.29
n.b.
ct. no. 34

CRR 461 of 2017

Tapan Kumar Ray & Anr.
Vs.
State of West Bengal & Anr.

Mr. Kamalesh Chandra Saha,
Ms. Debjani Roy Choudhuri
.....for the Petitioners

Mr. Uday Sankar Chatterjee,
Mr. Suman Sankar Chatterjee,
Mr. Santanu Maji,
Ms. Trisa Rakshit
... for the opposite party.

Mr. Arijit Ganguly,
Mr. Sanjib Kr. Dan
.....for the State

The revisional application has been preferred challenging the proceedings relating to CR 721 of 2015 pending before the Learned Judicial Magistrate, 5th Court at Serampur.

I have perused the enclosures made in the revisional application including the petition of complaint. The petition of complaint reflects that the complainant is residing within the jurisdiction of Serampur Police Station while the accused persons are residing within the jurisdiction of Ghola Police Station, 24 Parganas (North). It is reflected from the order dated 13.8.2015 that the Learned Additional Chief Judicial Magistrate, Serampur was pleased to take cognizance of the offences and transferred the case to the Learned Judicial Magistrate, 5th Court, Serampur. The Learned Judicial Magistrate after examination of the complainant under Section 200 of the Code of Criminal Procedure was pleased

to issue process under Sections 448/323/504/506 and 34 of the Indian Penal Code. The record of the case do not reflect that the learned Magistrate has conducted an enquiry under Section 202 of the Code of Criminal Procedure although he has implicated persons outside his territorial jurisdiction. The order dated 06.10.2015, therefore, calls for interference of this Court. Accordingly the order dated 6.10.2015 is hereby set aside.

The learned Magistrate is directed to adhere to the provisions of Section 202 of the Code of Criminal Procedure and thereafter decide whether the proceeding should progress under Section 203 of the Code of Criminal Procedure or Section 204 of the Code of Criminal Procedure. However, the order dated 13.8.2015 passed by the learned Chief Judicial Magistrate, Seerampore is hereby affirmed.

Accordingly, the revisional application being CRR 461 of 2017 is partly allowed.

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

The learned Judicial Magistrate, 5th Court Serampore is directed to proceed as directed above.

Needless to state that this Court has not gone into the merits of the case but have specifically considered the illegality from the procedural of the case.

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

(Tirthankar Ghosh, J.)