

31-03-2022
Subha
Item - 57
Ct -.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 689 of 2020

In Re: An application under Sections 401 and 482 of the Code of Criminal Procedure, 1973.

In the matter of : ***Dipankar Mondal***

..... petitioner.

Mr. Arindam Jana
Mr. Soumyajit Chatterjee

.....for the Petitioner.

Mr. Sankar Prasad Dalapati
Mr. Sourav Mondal

....for the opposite party nos. 2 to 4.

Mr. Swarup Banerjee
Mr. H. C. Yadav

...for the opposite party nos. 5 & 6.

Mr. Imran Ali,
Ms. Debjani Sahu

....for the State.

The revisional application has been preferred challenging the order dated 15.01.2020 passed by the learned Additional chief Judicial Magistrate, 2nd Court, Baruipur, South 24 Parganas.

Mr. Jana, learned advocate appearing on behalf of the petitioner submits that the learned Magistrate without appreciating the facts of the allegations as made in the application under Section 156(3) of the Code of Criminal Procedure, rejected the application depriving the present petitioner a right to be investigated in respect of the disputes referred to in the application

under Section 156(3) of the Code of Criminal Procedure.

Mr. Dalapati, learned advocate appearing on behalf of the opposite party nos. 2 to 4 disputes the contentions raised by the learned advocate appearing on behalf of the petitioner and supports the order passed by the learned Magistrate holding that no cognizable offence has been made out.

Mr. Banerjee, learned advocate appearing on behalf of the opposite party nos. 5 & 6 submits that the bank officials have been unnecessarily named in the cause title without any role being assigned to them in the application under Section 156(3) of the Code of Criminal Procedure and as such, the learned Magistrate correctly held that no cognizable offence has been made out and as such no question arises for directing an order for investigation treating the petition of complaint as a F.I.R.

Learned advocate appearing on behalf of the opposite party nos. 5 & 6 also submits that the bank officials would be prejudiced, in case liberty is granted to the petitioner to file an application under Section 200 of the Code of Criminal Procedure, in view of the fact that the sanction under Section 197 of the Code of Criminal Procedure is required for pursuing any criminal case in respect of bank officers who are working in discharge of their official duties.

The petitioner has submitted before this court that all the documents could not be produced before the learned Magistrate at the relevant point of time and as such, the present order which

was passed by the learned Magistrate would prejudice in pursuing any other litigation being filed for the purposes of initiation of a criminal proceedings.

Needless to state that it is the settled position of law that if the petitioner intends to prefer an application under Section 200 of the Code of Criminal Procedure, the petitioner would be at liberty to do the same without any specific observation being made by this court.

It would be trite to state that in case such an application under Section 200 of the Code of Criminal Procedure is filed, the learned Magistrate would assess regarding the allegations made in respect of each of the persons against whom such case is filed. If required, resort to the provisions of Section 202 of the Criminal Procedure should be taken and then assessed whether the complaint should be dismissed under Section 203 of the Code of Criminal Procedure or process should be issued under Section 204 of the Code of Criminal Procedure.

No interference is made regarding the impugned order, which is the subject matter of challenge before this court being the order dated 15.01.2020 passed by the learned Magistrate refusing the prayer for police investigation under Section 156(3) of the Code of Criminal Procedure.

With the aforesaid observations, the present revisional application being CRR 689 of 2020 is disposed of.

All pending applications, if any, in connection with the

revisional application, are consequently disposed of.

Interim order, if any, is hereby vacated.

All parties are to act in terms of a website copy of this order duly downloaded from the official website of this court.

(Tirthankar Ghosh, J.)

