

M/L31
05.12.2022
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C.R.R. No.660 of 2021
With
CRAN 8 of 2022

In Re: A petition under Section 482 of the Code of Criminal Procedure,
1973;

Binod Kumar Sharma and others
Versus
Registrar of Companies, West Bengal

Mr. Ayan Bhattacharjee,
Mr. Kuldeep Mullick,
Mr. Anand Keshari,
Mr. Abhijit Sarkar,
Mr. Abhik Chitta Kundu.
...for the petitioners.

Ms. Amrita Pandey,
Mr. Ghanshyam Pandey.
...for the opposite party.

The petitioners have challenged the continuance of the proceedings of Complaint Case No.40 of 2020 which was initiated before the learned Judge, Second Special Court, Calcutta for alleged offences under the Companies Act, 2013.

In course of hearing of the present revisional application before this Court, it has been found that there are materials in the inspection report which were collected by the department, but not produced before the court and the Assistant Registrar of Companies, who filed the complaint, claimed exemption under Section 200 of the Code of Criminal Procedure as a Public Servant. As such, a cryptic complaint was filed before the learned Special Court. On an inspection of the materials which have been collected in course of investigation by the department, I direct that in this

case the materials should be placed before the court prior to issuance of process.

Accordingly, I direct that the complainant and its witness be examined under Section 200 of the Code of Criminal Procedure by the learned Judge, Second Special Court, Calcutta who was pleased to take cognizance by its order dated 4th December, 2020. Without entering into the merits of the case so far as the allegations are concerned or the applicability of sections are concerned, the order taking cognizance of the offence is affirmed. However, so far as the order relating to issuance of summon/process is concerned, the same is set aside.

Learned Special Court would fix dates for production of materials which were collected in course of the investigation, allow the complainant to examine himself and his witnesses, rely upon the documents and thereafter arrive at its conclusion independently, as directed above.

Mr. Bhattacharjee, learned advocate appearing for the petitioners submits that so far as the cause title of the application is concerned, some of the directors may not have been responsible in respect to the period which has been made in the complaint.

Learned Magistrate would assess the same at the time of issuance of process.

With the aforesaid observations, CRR 660 of 2021 is disposed of.

Pending applications, if any, is 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.)