

24.02.2022

Item No.43
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 1317 of 2018
(Via Video Conference)

Rohit Dave
versus
State of West Bengal & Anr.

In Re: An Application under Sections 401 and 482 of the Code of Criminal Procedure, 1973 filed in connection with Case No. 31952/18 under Sections 420/406/506/120B of the Indian Penal Code now pending before the learned Metropolitan Magistrate, 8th Court, Calcutta.

None appears for the petitioner.

Earlier this matter was called on 10.02.2022 when none was represented.

Records reflect that the learned Metropolitan Magistrate, 8th Court, Calcutta after examining PW-1 and PW-2 under Section 200 of the Code of Criminal Procedure was pleased to issue summons under Section 204 of the Code of Criminal Procedure and fixed on 17.07.2018 as the date for appearance. The petition of complaint reflects that all the accused persons are from Maharashtra which is outside the jurisdiction of the learned Magistrate who is in seisin of the matter.

In view of the decision of the Hon'ble Supreme Court in respect of adhering to the provisions under Section 202 of the Code of Criminal Procedure, I direct that the learned Magistrate should conduct an enquiry regarding complicity of each of the accused persons and thereafter issue process. Accordingly, the order dated 18.05.2018 passed by the

learned Magistrate issuing summons under Section 204 of the Code of Criminal Procedure and fixing date for appearance of the accused persons is hereby set aside.

The learned Magistrate is directed to conduct an enquiry under Section 202 of the Code of Criminal Procedure and after satisfying himself decide, whether in the instant case process should be issued or should not be issued.

The learned Magistrate is also directed to complete the enquiry under Section 202 of the Code of Criminal Procedure within a period of 90 days from the date of communication of this order and proceed thereafter in accordance with law.

With the aforesaid observations, the revisional application being CRR 1317 of 2018 is partly allowed.

Interim order, if any, is hereby vacated.

All pending connected 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 with all requisite formalities.

(Tirthankar Ghosh, J.)