

20-09-2022
Subha
Item no.72

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 1261 of 2021

Ct no.34

JBFS Engineering Systems Pvt. Ltd.
-versus-
The State of West Bengal & Ors.

Mr. K. C. Garg
Mrs. Sunita Agarwal

...for the petitioner.

Re : An application under Section 397 and Section 401 of the Code of Criminal Procedure.

The subject matter of this revisional application relates to an order dated 12th February, 2020 wherein the learned Metropolitan Magistrate, 19th Court, Calcutta in complaint case no. CNS/127979/2016 was pleased to expunge the name of Anand Metal Roofing.

Learned advocate appearing for the petitioner submits that without serving any notice upon the complainant by record being put up, the said order was passed by the learned Magistrate without any information being made available to the complainant/petitioner.

Learned advocate disputes the contentions that the said Anand Metal Roofing is a proprietorship firm and intends to address the learned Metropolitan Magistrate on the said issue.

I have perused the order dated 12.02. 2020 and it is a fact that the said order do not reflect the presence of the complainant or any notice being served upon the complainant, rather it reflects that the same was not on a regular date and the order

was passed by the records being put-up.

There is a finding of the learned Magistrate by the impugned order as also recalling of the order of attachment. The finding is expunging an accused person ex parte which is not permissible law.

Having regard to the nature of the order passed by the learned Magistrate, I am of the opinion that an opportunity should have been granted to the complainant to address the court on the issue as it is the complainant who has set the criminal law into motion.

Considering the point so canvassed and the nature of the order passed, I am of the opinion that the order dated 12.02.2021 is hereby set aside.

Accordingly, the revisional application being CRR 1260 of 2021 is allowed.

Learned Magistrate is directed to rehear the issue so far as the locus of Anand Metal Roofing is concerned. The complainant will address the learned Metropolitan Magistrate, 19th Court, Calcutta on the next date so fixed for the purposes of the complaint case. The issue would be decided by the learned Metropolitan Magistrate and thereafter the criminal case would proceed in accordance with the law.

With the aforesaid observations, the revisional application being CRR 1261 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

Interim order, if any, is hereby vacated.

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

[Tirthankar Ghosh, J]

