

13.04. 2022
item No.14
n.b.
ct. no. 34

CRR 1311 of 2017
+
IA No. CRAN 1 of 2017(Old No. CRAN 2423 of 2017)
+
CRAN 3 of 2019(Old No. CRAN 830 of 2019)

Sriram Parameswaran & Ors.
Vs.
The State of West Bengal & Anr.

Mr. Souvik Mitter,
... for the Petitioners

The subject matter of challenge in the present revisional application relates to the order dated 08.02.2017 passed in Criminal Revision No.377 of 2013 by the Learned Additional Sessions Judge, Fast Track 7th Court, Alipore, South 24 Parganas wherein the Learned Court was pleased to dismiss the revisional application and affirmed the order dated 03.07.2013 passed by the Learned Judicial Magistrate, 9th Court, Alipore in connection with case No.C/4279/2013.

Mr. Mitter, learned advocate appearing for the petitioners submits that the issuance of process in the instant case is bad in law as all the petitioners were residing outside the territorial jurisdiction of the Learned Magistrate, yet the Learned Magistrate did not adhere to the provisions of Section 202 of the Code of Criminal Procedure and issued process.

The attention of the Court has been drawn to the order dated 03.07.2013 wherein the Learned Court has observed that

only the complainant has been examined on solemn affirmation and no other witnesses were present and the Court on perusal of the petition of complaint, initial deposition of the complainant and the documents filed was pleased to hold that prima facie case has been made out under Sections 420 /406 of the Indian Penal Code and thereafter issued summons, fixing date for appearance of the present petitioners.

Having regard to the settled proposition of law as spelt out by the Hon'ble Supreme Court in the decisions of *National Bank of Oman VS. Barakara Abdul Aziz reported in (2013) 2 SCC 488* and *Abhijit Pawar Vs. Hemant Madhukar Nimbalkar reported in (2017) 3 SCC 528*, I am of the opinion that the Learned Court should have conducted an exhaustive enquiry in order to ascertain the complicity of the present petitioners as the very purpose of Section 202 of the Code of Criminal Procedure is for ascertaining the complicity of all the petitioners are to be who are residing outside the territorial jurisdiction of the Court.

In view of the said provisions being not adhered to, I am of the opinion that the order dated 03.07.2013 which was affirmed by the Learned Additional Sessions Judge, Fast Track 7th Court at Alipore in Criminal Revision No.377 of 2013 by its order dated 08.02.2017 requires interference.

Thus, the order dated 03.07.2013 is set aside and consequently, CRR 1311 of 2017 is partly allowed.

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

Interim order, if any, is hereby vacated.

Learned Magistrate would adhere to the provisions of Section 202 of the Code of Criminal Procedure and independently arrive at his opinion whether to proceed with the case either under Section 203 or 204 of the Code of Criminal Procedure.

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

(Tirthankar Ghosh, J.)