

11-04-2022
Subha
Item no.11
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 1443 of 2019

In the matter of : **Arup Sarkar**petitioner.

In Re : An application under 482 of the Code of Criminal Procedure.

Mr. Sandipan Ganguly, Sr. Adv.,
Mr. Somopriya Chowdhury
Mr. Soumitra Datta
....for the petitioner.

Mr. Debasish Roy
Mr. Rudradipta Nandy
....for the Opposite Party.

The petitioner has challenged the proceedings being Complaint Case No. 1 of 2018 pending before the learned Chief Judge, City Sessions Court, Calcutta under Sections 499/500 of the Indian Penal Code.

I find from the records of the case that the complainant/opposite party filed the complaint before the learned Sessions Judge, thereby, intending to invoke the provisions of sub-section (2) of Section 199 of the Code of Criminal Procedure. Sub-section (2) of Section 199 of the Code of Criminal Procedure states that it would be the Public Prosecutor who would file the complaint in writing before the court of sessions. Therefore, the court of sessions is to be considered as the original court under sub-section (2) of Section

199 of the Code of Criminal Procedure for the purposes of taking cognizance of the offence as well as for further enquiry or trial.

In this case, what we find from the complaint is that the public servant has filed the complaint and the Public Prosecutor has represented the public servant concerned. The complaint was not filed by the Public Prosecutor as is required under the provisions of sub-section (2) of Section 199 of the Code of Criminal Procedure.

In view of the alternate provisions available under sub-section (6) of Section 199 of the Code of Criminal Procedure where the public servant is also entitled to file a complaint before the learned Magistrate, I am of the opinion that the very mode and manner in which the powers of the learned Sessions Judge has been invoked is against the purpose for which sub-section (2) of Section 199 Cr.P.C has been incorporated by the Legislature.

The petition of complaint in its present form do not satisfy the requisites of Section 199(2) of the Code of Criminal Procedure and as such the cognizance taken by the learned Chief Judge, City Sessions Court, Calcutta is without jurisdiction and as such liable to be quashed.

Accordingly, the Complaint Case No. 1 of 2018 pending before the learned Chief Judge, City Sessions Court, Calcutta under Sections 499/500 IPC is quashed. The complainant would be at liberty to take steps, if so advised, in accordance with law.

Accordingly, the present revisional application being CRR 1443 of 2019 is allowed.

All pending applications, if any, in connection with the

revisional application, are consequently disposed of.

Interim order, if any, is hereby made absolute.

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]