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February
14, 2022
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C.R.R. No. 1631 of 2017
(Via Video Conference)

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

Md. Babar Ali
Versus
The State of West Bengal

Mr. Prosenjit Mukherjee,
Ms. Poulami Datta,
Ms. Tiya Ghosh.
...for the petitioner.

Ms. Faria Hossain,
Mr. Anand Keshari.
...for the State.

The revisional application has been preferred challenging the proceedings pending before the learned Judicial Magistrate, 3rd Court, Rampurhat, Birbhum in connection with Margram Police Station Case No.44 of 2014 dated 01.04.2014 (G.R. No.298 of 2014).

The sum and substance of the contentions advanced by the learned advocate for the petitioner is that the nature of the allegations bars to take cognizance of the offence in view of Section 195 of the Code of Criminal Procedure. Learned advocate additionally submits that as the case was initiated under Section 156(3) of the Code of Criminal Procedure, the police authority has no scope to investigate the case and, as such, the cognizance which has been taken on the charge-sheet which has been submitted before the jurisdictional court is without any authority and is bad in law.

Ms. Faria Hossain, learned advocate appearing for the State opposes the said contentions and submits that the preparation of the document which is the subject matter of the case do not call for application of the provisions relating to Section 195 of the Code of Criminal Procedure and, as such, there was no illegality in the charge-sheet which has been filed before the jurisdictional court after completion of investigation and the cognizance taken by the learned Magistrate.

Having heard the petitioner as well as the State, I am of the opinion that there is much force in the submission made by the learned advocate appearing for the State relating to issue of applicability of Section 195 of the Code of Criminal Procedure.

Learned advocate appearing for the petitioner has also drawn certain observations relating to Section 471 of the Indian Penal Code being made by the learned sessions court while exercising its revisional jurisdiction in connection with Criminal Revision No.13 of 2016. I am of the considered opinion that the same was an observation made while disposing of the revisional application and the same is not conclusive.

It has been informed that the next date has been fixed on 29th August, 2022 for consideration of charges by the learned Magistrate.

I direct that in case of application under Section 239 of the Code of Criminal Procedure is preferred by the petitioner regarding the applicability of the sections, the learned Magistrate would consider regarding its applicability in respect of the alleged

offences and thereafter frame charges under the requisite sections.

With the aforesaid observations, CRR 1631 of 2017 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

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

(Tirthankar Ghosh, J.)