

CRR 1704 of 2019
(Via video conference)

In Re: An application under Section 397/399/401 read with
Section 482 of the Code of Criminal Procedure, 1973.

In the matter of : Sanjoy Mondal @ Sanjoy Kumar Mondal
.....Petitioner

Mr. Angshuman Chakraborty
Mr. Shashanka Shekhar Sahafor the Petitioner

Mr. Partha Sarathi Bhattacharyya
Ms. Sukla Das Chandra ...for the Opposite party no. 2

Mr. S.S. Imam
Mr. S. Kundu ...for the State

Affidavit of service filed by the learned advocate for the
petitioner, be kept with the record.

Mr. Chakraborty, learned advocate appears for the petitioner.

Mr. P.S. Bhattacharyya, learned advocate appears for the
opposite party no. 2.

Mr. Kundu, learned advocate appears for the State.

Learned advocate for the petitioner at the inception submits
that the learned Additional Sessions Judge, 1st FTC Court,
Diamond Harbour in Criminal Motion No. 15 of 2018 was pleased
to set aside the order dated 11.10.2017 passed by the learned
Judicial Magistrate, 1st Court, Diamond Harbour wherein the
learned Magistrate was pleased to hold that no case was made out
so far as the present petitioner is concerned, although the learned
Magistrate was pleased to issue process against the other accused
persons named in the petition of complaint.

Having regard to the fact that the learned Magistrate was not satisfied so far as the issuance of process against the petitioner is concerned and decided not to issue the same against him and the learned Sessions Court without affording any opportunity or issuing any notice arrived at a finding which is against the order of the learned Magistrate and having the consequences of facing the criminal trial, I am of the opinion that without going into the merits of the case regarding the complicity or involvement of the petitioner in the petition of complaint or on any other provisions whether the petitioner is entitled to any relief or not, the learned Sessions Court should afford an opportunity to the petitioner before arriving at a finding against him.

Accordingly, the judgment and order dated 26.11.2018 is set aside. The learned Additional Sessions Judge, 1st FTC Court, Diamond Harbour would freshly consider the revisional application after affording an opportunity to all the parties being the petitioner before this Court, the opposite party no. 2 i.e. Md. Islamuddin Gazi as also the State or any affected parties.

To that effect, the learned Magistrate, on receipt of communication of this order, would issue notice to the respective parties for fixing a date within a period of four weeks and take all efforts for disposing of the same by 31st March, 2022.

With the aforesaid observations, CRR 1704 of 2019 is partly allowed.

Interim order, if any, is hereby vacated.

Pending application, if any, is consequently disposed of.

The petitioner and the opposite party no. 2 will communicate this order and place the same before the learned Additional

Sessions Judge, 1st FTC Court, Diamond Harbour on or before 10th February, 2022 and the learned Court would proceed as earlier directed.

All parties are to act on the server copy of this order, duly obtained from the official website of this Court.

(Tirthankar Ghosh, J.)