

25.03. 2022
item No.21.
n.b.
ct. no. 34

CRR 2073 of 2018

Dr. Nikhil Kumar Ghorai
Vs.
The State of West Bengal & Anr.

Mr. Rabindra Nath Bag,
Mr. Rohan Raj
... for the Petitioner
Mr. Saibal Bapuli. A.P.P.,
Mr. Bibaswan Bhattacharya,
..... for the State.

The revisional application has been preferred challenging the proceedings of complaint case No.16 of 2018 pending before the Learned Chief Judicial Magistrate, Darjeeling under Section 200 Cr. P.C. read with Section 28(1) (a) of the pre conception and pre-natal Diagnostic Techniques(Prohibition of Sex Selection) Act, 1994 for violation of Section 3(3), 4(3), 5(1)(b) and 18 of the PC and PNDT Act, 1994 read with Rule 9 punishable under Section 23 and 25 of the said Act.

Mr. Bhattacharya, learned advocate appearing for the State has also submitted list of documents in support of the complaint case which has been filed before the Learned Chief Judicial Magistrate.

The background of the case reflects that complainant himself conducted an enquiry, search and seizure and thereafter initiated the present proceedings under Section 200 of the Code of Criminal Procedure. The present petitioner also happens to be a

Doctor who was subjected to an enquiry before the authorities and he submitted a show cause also before the authorities.

In view of the aforesaid I am of the opinion, that prior to issuance of process the learned Magistrate should have conducted an enquiry particularly with regard to the factual circumstance of the case regarding any guilty mind being involved by the present petitioner or not.

Accordingly, I direct the learned Magistrate to conduct an enquiry/investigation within the parameters of Section 202 of the Code of Criminal Procedure through any officer/person referred to under Section 202 of the Code of Criminal Procedure. In course of the enquiry further opportunity must be given to the complainant and also the present petitioner who happens to be accused to present the facts before the Enquiry Authority under Section 202 of the Code of Criminal Procedure. The said authority would thereafter submit a report before the learned Magistrate and the learned Court would then come to a finding as to whether a case for issuance of process under Section 204 of the Code of Criminal Procedure has been made out or further continuance of the proceedings is required or not.

With the aforesaid observations the revisional application being CRR 2073 of 2018 is disposed of.

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

List of document submitted by Mr. Bhattacharya, learned advocate for the State be kept with the record.

Such enquiry may be concluded within a period of three months from the date of communication of this order.

Department is directed to communicate this order to the learned Chief Judicial Magistrate, Darjeeling within a week from date.

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

(Tirthankar Ghosh, J.)