

31-01-2022
Subha
Item no. 20
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
(Via video-conference)

C.R.R 1766 of 2019

In Re: An application under Section 401 read with Section 482 of the Code of Criminal Procedure.

In the matter of : **Alok Kumar Bhanja**Petitioner.

Mr. Soumyajit Chatterjee
....for the petitioner.

The order dated 02.07.2019 passed by the Learned Sub-Divisional Executive Magistrate, Diamond Harbour, South 24 Parganas reflects that an enquiry commission was constituted with three learned advocates namely, Mr. Subrata Mondal, Mr. Utpal Das & Mr. Rajat Kumar Halder.

Learned Executive Magistrate vested power upon the learned advocates under Section 147 of the Cr.P.C, who would consult with the BL & LRO, Falta and Inspector-in-Charge. Falta Police Station. When an Executive Magistrate exercises his power under the aforesaid provisions, it is incumbent upon him to follow the procedure engrafted therein.

The provisions of Section 147 Cr.PC relates to report of a police officer or upon other information. Thus, it was incumbent upon the Executive Magistrate to call and rely solely upon the report of the Officer or any Government Officer for arriving at his opinion or

conclusion and for that purpose no advocate commission could have been created.

Having regard to the aforesaid, I am of the opinion that the part of the order which relates to constitution of an enquiry commission by three learned advocates in the order dated 2nd July, 2019 is concerned, the same is not in consonance with the relevant provisions of Code of Criminal Procedure and, as such, is liable to be set aside.

The Learned Executive Magistrate would strictly adhere to the provisions of Section 147 of the Code of Criminal Procedure and would dispose of the application adhering to the provisions of law.

With the aforesaid observations, CRR 1766 of 2019 is partly allowed.

Interim orders, passed herein, are made absolute.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

All concerned parties are to act in terms of a website copy of this order duly downloaded from the official website of this court.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

[Tirthankar Ghosh, J]

