

25.04.2022

Item No.54
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

**C.R.R. 2192 of 2019
with
CRAN 2 of 2020 (Old No. CRAN 553 of 2020)**

**Dilip Kumar Tiwary @ Tiwari @ D.K.Tiwari
versus
State of West Bengal & Anr.**

In Re: An Application under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973 filed for quashing of the proceedings being Complaint Case No. C-4016 of 2018 under Sections 420/406/120B/34 of the Indian Penal Code pending before the learned Judicial Magistrate, Bidhannagar, North 24-Parganas.

Mr. Shibaji Kumar Das ... For the Petitioner.

Mr. Saunak Sarbajana,
Mr. Soham Mukherjee,
Mr. Akash Dutta,
Ms. Payel Dey ... For the Opposite Party No.2.

This revisional application has been preferred challenging the proceedings relating to Complaint Case No. C-4016 of 2018 under Sections 420/406/120B/34 of the Indian Penal Code pending before the learned Judicial Magistrate, Bidhannagar, North 24-Parganas.

I have perused the allegation made in the petition of complaint which was referred to by the learned advocate appearing for the petitioner and I am of the opinion that there are triable issues subject to satisfaction of the learned Magistrate. However, the learned Magistrate while issuing process in respect of the accused persons, who are admittedly residing at Himachal Pradesh or their offices are situated therein, did not comply with the provision of Section 202 of

the Code of Criminal Procedure as is reflected in the order dated 18.07.2019.

In view of the settled proposition of law as has been spelt out by the Hon'ble Supreme Court in ***National Bank of Oman Vs. Barakara Abdul Aziz and Another*** reported in **(2013) 2 Supreme Court Cases 488**, I am of the opinion that it was incumbent upon the learned Magistrate to adhere to the provisions of Section 202 of the Code of Criminal Procedure and since the same have not been done, interference is called for.

Accordingly, the order dated 18.07.2019 issuing process against the accused persons is hereby set aside. However, the order dated 25.07.2018 on which the learned Magistrate took cognizance of the offence is hereby affirmed.

The revisional application being CRR 2192 of 2019 is, thus, partly allowed.

Interim order, if any, is hereby vacated.

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

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

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

(Tirthankar Ghosh, J.)