

10-08-2022
Subha
Item no.51

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 3302 of 2009

Ct no.34

Smt. Sharmila Murarka
-versus-
The State of West Bengal & Ors.

Mr. Pawan Kumar Gupta
Mr. Sarita Bagaria
Ms. Sofia Nesar
Mr. Santanu Sett

.....for the petitioner.

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

The present application has been preferred challenging the proceedings being Complaint Case No. 1894 of 2009 under Section 628 read with Section 621 of the Companies Act.

Record of the revisional application reflects that the learned Chief Judicial Magistrate, Alipore after receipt of the complaint and after examination of the complainant on 13.04.2009 was pleased to issue summons against the present petitioner and others.

Learned advocate for the petitioner has challenged the proceedings on certain factual aspects of the case regarding the dispute relating to shares of the company which is the subject matter of the complaint.

None appears on behalf of the opposite parties.

Record of this case reflects that the present petitioner at the relevant point of time was residing at Patna.

Having regard to the fact that Section 202 of the Code of Criminal Procedure

was not complied with by the learned Magistrate prior to the issuance of process, I am of the opinion that the summons so issued by the learned Magistrate under Section 204 of the Code of Criminal Procedure should be quashed.

Accordingly, the proceedings are remanded back to the learned Chief Judicial Magistrate, Alipore. The learned Magistrate will conduct an enquiry as is provided under Section 202 of the Code of Criminal Procedure and thereafter take a decision whether to proceed under Section 203 of the Code of Criminal Procedure or Section 204 of the Code of Criminal Procedure.

With the aforesaid observations, the revisional application being CRR 3302 of 2009 is disposed of.

Pending applications, if any, are consequently disposed of.

Interim order, if any, is hereby vacated.

If any warrant of arrest has been issued in course of the proceedings, the same is deemed to be quashed pursuant to the order passed by this court.

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

[Tirthankar Ghosh, J]

