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March 24,
2022
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C.R.R. No.2753 of 2017

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

Smt. Smita Behera
Versus
Suresh Bhosle & Anr.

Mrs. Subhasree Patel,
Mr. Saikat Mondal.
...for the petitioner.

Mr. Prasun Kumar Dutta, Ld.A.P.P.,
Ms. Sujata Das,
Ms. Debjani Sahu.
...for the State.

Ms. Patel, learned advocate appearing for the petitioner is aggrieved by the order passed by the learned Chief Judge, City Sessions Court, Calcutta in Criminal Revision No.139 of 2015 wherein the learned sessions court was pleased to affirm the order dated 27.05.2015 passed by the learned Metropolitan Magistrate, 13th Court, Calcutta in G.R. Case No.2197 of 2014.

I have perused the order passed by the learned Magistrate and I find that the learned Magistrate on an application returned the gold ornaments to the de facto complainant.

Learned advocate appearing for the petitioner who happens to be the wife of one of the accused persons named in the charge-sheet submits that the jewellery which were handed over to the de facto complainant were her personal belongings and she is in possession of valid receipts of the same which was purchased out of

her own money. It has also been submitted that the subject matter of the case has nothing to do with the personal jewelleryes of a lady and the learned Magistrate erroneously passed the impugned order which was affirmed by the learned revisional court (being sessions court).

Mr. Dutta, learned Additional Public Prosecutor, appearing for the State produces the original case diary as also a report. Let the report be kept with the record.

Learned advocate for the State has also drawn the attention of this Court to the seizure list as also the statement of the witnesses.

As this case is fixed before the learned trial court for consideration of charge, I do not intend to comment upon the purported claim of the present petitioner in respect of the subject matter of the case, however, prima facie, I do not find any illegality in the impugned order passed by the learned sessions court as also the learned Metropolitan Magistrate, 13th Court, Calcutta.

The petitioner would be at liberty to produce the receipts in her custody at the appropriate stage of the trial for making her rightful claim in respect of the subject matter for which she has preferred the application.

With the aforesaid observations, CRR 2753 of 2017 is disposed of.

The case diary be returned to the learned Additional Public Prosecutor appearing for the State.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

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

(Tirthankar Ghosh, J.)