

30.03.2022

Item No.68
Ct.No.34
dc.

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

C.R.R. 2869 of 2019

**Mateti Venkata Kamalakar Rao
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 482 of the Code of Criminal Procedure filed in connection with Complaint Case No. CS/34788/2019 corresponding to T.R. 2934/2019 under Sections 420/406/120B of the Indian Penal Code.

Mr. Krishnendu Bhattacharya,
Mr. Avishek Guha,
Mr. Priyankar Ganguly,
Ms. Shalini Bairagi ... For the Petitioner.

Md. Anwar Hossain,
Ms. Sreyashee Biswas ... For the State.

Mr. Dhilon Sengupta,
Mr. Ayan Chakraborty,
Ms. Shalini Mukherjee ... For the Opposite Party No.2.

The petitioner before this Court is accused no.6 in the petition of complaint wherein he has been shown to be the Managing Director of New Apex, 11-2-82/83, Balaji Nagar, Beside Sridevi Nursing Home, NST Road, Khammam (Landlord).

Learned advocate appearing for the petitioner submits that the petitioner is simply the landlord and he has been implicated in the complaint case without having any role in the day-to-day business of the accused company who happens to be a tenant. Learned advocate also draws the attention of this Court to the examination under Section 200 of the Code of Criminal Procedure of one Sourindra Matilal which was recorded by the learned Metropolitan Magistrate,

7th Court, Calcutta. The learned advocate for the petitioner also refers to certain communications made between the parties.

On the contrary, learned advocate appearing for the complainant/opposite party no.2 submits that there are specific allegations in the petition of complaint regarding the role of the present petitioner who had taken the charge of the business.

Be that as it may, I find that although the complainant was examined under Section 200 of the Code of Criminal Procedure, the learned Magistrate considered that as covering up the issue regarding Section 202 of the Code of Criminal Procedure as recorded in order dated 29.08.2019 thereby issuing process under Sections 420/406/120B of the Indian Penal Code.

In view of the conflicting descriptions made in the petition of complaint as also the examination under Section 200 of the Code of Criminal Procedure as pointed out by the learned advocate for the petitioner, I am of the opinion that the learned Magistrate, prior to issuance of process, is required to conduct a further detailed enquiry regarding the availability of materials relating to proof of the accused no.6 being the Managing Director of the accused no.1. Once the learned Magistrate is satisfied or dissatisfied regarding the materials produced, the learned Magistrate would proceed either under Section 204 of the Code of Criminal Procedure or under Section 203 of the Code of Criminal Procedure. For the

present, the order dated 29.08.2019, so far as the present petitioner is concerned, is set aside.

The learned Magistrate would conduct such enquiry within the meaning of Section 202 of the Code of Criminal Procedure within a period of 60 days from the date of communication of this order and spell out his decision on the issue within 30 days thereafter.

With the aforesaid observations, the revisional application being CRR 2869 of 2019 is 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.)