

19.7.2022
S.D.
23.

C.R.R. 3808 of 2017

Sri Kalyan Kumar Maiti
Vs.
State of West Bengal & Ors.

Mr. Tapas Kumar Sinha

...For the Petitioner.

Mr. Swapan Banerjee
Ms. Purnima Ghosh

...For the State.

Learned advocates for the petitioner and opposite party/State are present.

The revisional application is listed today for hearing.

Petitioner has filed this application under Section 401 read with Section 482 of the Cr.P.C. assailing order dated 3.11.2017 passed by learned Additional Chief Judicial Magistrate cum Civil Judge (Sr. Division), Kakdwip, South 24-Parganas in G.R. Case No. 653 of 2009, whereby learned Jurisdictional Court issued a bailable Warrant of Arrest against the defacto-complainant with a bail bond of Rs.500/- and directed the defacto-complainant to secure presence of the witnesses and to appear before the Court on 30.11.2017 for evidence.

The application has been filed on the ground that the petitioner is under the threat of being kidnapped and murdered for which he could not attend the Court. The petitioner had informed his advocate over mobile phone to seek accommodation before the learned Magistrate and he also went to the extent of communicating that he has no objection if

the accused/opposite party are acquitted as the life of the petitioner was at stake. The contention of the petitioner is that learned Magistrate failed to appreciate that the defacto-complainant had no intention to avoid the Court process for which he could not appear on 3.11.2017 due to such threat perceptions at the instance of the accused persons.

It has been prayed that the impugned order passed by learned Magistrate on 3.11.2017 is liable to be set aside.

Mr. Banerjee, learned Senior advocate appearing for the State strongly opposed the prayer and submitted that there is no illegality or irregularity in the order passed by the learned Magistrate since the petitioner not only avoided receiving the summons but the family members refused to accept the summons.

Considered the submissions made by learned advocates for both sides. None appeared for O.P. Nos. 2 to 10.

It appears from the record that G.R. Case No. 653 of 2019 was initiated at the instance of the petitioner and charge sheet has been submitted against eight accused persons under Section 323/354/383/379 and 120B of the IPC. After several adjournments and issuing summons by the learned Additional Chief Judicial Magistrate, the impugned order dated 3.11.2017 was passed where he has clearly stated that the witness is deliberately not attending Court and learned advocate for the petitioner went to the extent of submitting that accused persons may be acquitted.

I find no illegality in the impugned order passed by the Magistrate which was only to enforce the attendance of the witness and to exhaust

the process laid down in the Code of Criminal Procedure which is a mandatory compliance in course of trial.

In such view of the matter, I find no merit in the revisioinal application filed by the petitioner. The same is accordingly dismissed on contest.

Interim order, if any, stands vacated.

The petitioner is directed to attend Court within a fortnight from the date of order on regular basis. Learned A.C.J.M. shall expedite hearing of this case in accordance with law.

Let a copy of this order be communicated to learned Additional Chief Judicial Magistrate, Civil Judge (Sr. Division), Kakdwip for information.

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

(Ananda Kumar Mukherjee, J.)