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IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

CRR 66 of 2017

Mantu Ghosh
-Vs.-
Gopal Chandra Manna & Anr.

None ...for the petitioner.

Mr. Pravas Bhattacharya,
Mr. M.F.A. Begg ...for the State.

The petitioner filed this revisional application under Section 482 of the Code of Criminal Procedure, 1973 praying for setting aside the order dated 23.08.2016 passed by the learned Sub-Divisional Magistrate, Ghatal in connection with NGR. No. 693(E)16 arising out of Daspur Police Station G.D.E. No. 718, 1650 dated 31.7.2016 under Section 107 of the Code of Criminal Procedure.

The brief fact of the case is that on 13.05.2016 at about 10.25 hrs., one Gopal Chandra Manna, son of Lt. Ashutosh Manna, Vill.-Gokulnagar, PS – Daspur, Dist.-Paschim Medinipur came to PS and lodged the complaint against the present petitioner regarding threatened and used filthy languages with dire consequences to the complainant over the issue of previous grudge and dispute land matter.

After hearing learned Executive Magistrate, Ghatal started a proceeding under Section 107 of the Code of Criminal Procedure against the petitioner and thereafter issued summons upon the petitioner.

It is the contention of the petitioner that learned Executive Magistrate without following the procedure laid down under Section 111 of the Code of Criminal Procedure issued the summons. Accordingly, the order passed by the learned Executive Magistrate, Ghatal is erroneous and perverse and that is required to be set aside.

Mr. Bhattacharya, learned advocate appears for the State concedes and submits that the Executive Magistrate did not follow the procedure as laid down under Section 111 of the Code of Criminal Procedure and that is required to be set aside.

Section 111 of the Code of Criminal Procedure is set out below :

“111. Order to be made. When a Magistrate acting under section 107, section 108, section 109 or section 110, deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.”

After hearing learned advocate for the State and perusal of the record, this Court finds that the Executive Magistrate did not follow the procedure as laid down under Section 111 of the Code of Criminal Procedure. Accordingly, the order dated 23.08.2016 passed in NGR. No. 693(E)16 is hereby set aside.

With the aforesaid observation, this revisional application being CRR 66 of 2017 stands allowed.

Urgent xerox certified copy of this order, if applied for, be supplied to the parties subject to compliance of requisite formalities.

(Ajay Kumar Gupta, J.)