

24.03.2023
Ct. No.34
Supple. List.2
KS

C.R.L.C.P. 3 of 2023
With
C.R.R. 3062 of 2022
Shakti Sankar Bagchi
-Vs.-
Sumana Saha Roy & Ors.

Mr. Shakti Sankar Bagchi
..... For the Petitioner/applicant (In Person)

Petitioner/applicant has handed over some photostat copies, presumably order sheets of the learned C.J.M., Murshidabad. It is reflected from the order sheets that the learned C.J.M. tried his level best to give dates in close proximity of time on 20th January, 2023, 30th January, 2023, 3rd February, 2023, 4th February, 2023 and 7th February, 2023 and so on. It has been submitted by the applicant/petitioner that the next date is fixed on 28th March, 2023.

The contents of the said orders reflected that for diverse reasons the C.J.M, Murshidabad was unable to take up the case including resolution of the Bar and non-appearance of the parties.

The main grievance of the petitioner is that this Court in C.R.R. 3062 of 2022 dated 23.09.2022 directed the learned Judicial Magistrate, 2nd Court, Berhampore to allow the applicant to file his objection under Section 205 of the Code of Criminal Procedure and complete the said process by 30th September, 2022. By the said order it was directed that on the day of reopening, the learned Magistrate would re-hear the matter in accordance

with the observation of the Hon'ble Supreme Court in *Puneet Dalmia Vs. C.B.I.* reported in (2020) 12 SCC 695 dispose of the application filed under Section 205 of the Code of Criminal Procedure. Petitioner took out a connected application after the revisional application was disposed of on 5th January, 2023 in connection with the said revisional application. Reports were called for from the learned Judicial Magistrate, 2nd Court as also the learned C.J.M. and District Judge. The reports reflected regarding untoward incidents happening in the Courts particularly, the learned Judicial Magistrate, 2nd Court, Berhampore who was reluctant to take up the matter and, thereafter, released the matter sending it to the learned C.J.M. The order sheet of the learned C.J.M. also records quoted language of abuse of the present applicant which was addressed to the Court. The report of the Public Prosecutor, Murshidabad also reflected the conduct of the present applicant and his attitude of howling at the learned Judicial Magistrate. This Court, as such, by an order dated 5th January, 2023 filed by the applicant/petitioner who was appearing in person directed the learned C.J.M. to take up the C.R. 122 (C) of 2009, as the learned Judicial Magistrate, 2nd Court, Berhampore, Murshidabad expressed her unwillingness to adjudicate the complaint case.

The applicant/petitioner submits that there has been violation of the time period which has been recorded in the order dated 23rd September, 2022 and, as such, contempt rule be issued against the Judicial Officers as he brought the order to the notice of the learned Judicial Magistrate, 2nd Court, Berhampore, learned C.J.M., Berhampore and learned District Judge, Murshidabad who refused to comply with the same.

In a similar contempt application made by the petitioner/applicant in C.P.A.N. 220 of 2023 in M.A.T. No.1165 of 2019, a Division Bench of this Court was pleased to observe as follows:-

“When a litigant, who appears in person, without having the expertise of an astute lawyer, Court normally takes a soft stand consciously to make a level playing field for the litigant in such an uneven duel. Some litigants, though not all, do have a tendency to exploit such situation by taking out a petition, attended with malafide. This present petition under consideration is manifestation of such an evil design.”

In respect of the same complaint case the Division Bench has already passed a direction on 22nd February, 2023 upon the learned C.J.M., Murshidabad and disposed of C.P.A.N. 220 of 2023.

The petitioner after having informed this Court that the next date is fixed on 28th March, 2023, he was offered to attend the Court for participating in the proceeding so that the application under Section 205 of the Code of Criminal Procedure can be considered by the learned C.J.M. The applicant/petitioner insisted that steps be taken against the Judicial Officer instead of touching the merits of the case.

The Judicial Magistrate, District Judges are acting independently, firmly because they are protected by the Judges (Protection) Act, 1985 and not on whims and caprices of litigants. The red eyes of this litigant and his attitude of creating scene before a Court of law for testing the nerves of the Judicial Officers are speaking volumes in the report so submitted before this Court. The petitioner is bent upon to victimize the Judicial Officers, I am unable to concede that such an application is maintainable in law.

Accordingly, C.R.L.C.P. 3 of 2023 is dismissed.

Pending applications, if any, are consequently disposed of.

All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)