

22.02.2023
SL No.2
Court No.8
(gc)

**CPAN 220 of 2023
In
MAT 1165 of 2019**

**Shakti Sankar Bagchi
Vs.
Sumana Saha Roy,
Ld. Judicial Magistrate, 2nd Court,
Berhampore, Murshidabad & Anr.**

The petitioner had appeared in person yesterday. We have heard him. However, we could not dictate the order due to Pen down Strike of the High Court staff. Today, the matter is fixed for passing order. However, the petitioner is not present today, nor he has sent any request for any video link.

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.

The petitioner Shakti Sankar Bagchi has filed this petition of contempt alleging, *inter alia*, that learned 2nd Court of Judicial Magistrate, Berhampur, Murshidabad and learned Chief Judicial Magistrate of the district did not comply with the order of this Court passed on 24th June, 2022 and 22nd July, 2022 in MAT 1165 of 2019.

On 24th June, 2022 no direction was given to any of the aforesaid two Judicial Magistrates. On 22nd July, 2022, in rejecting the prayer for quashing of the criminal proceedings, this Court directed learned 2nd Court of Judicial Magistrate, Berhampur to proceed with the Complaint case in accordance with law and dispose of the same within six months, without granting unnecessary adjournment to either of the parties, unless it is unavoidable. The petitioner was given liberty to approach DLSA, Murshidabad for required legal service in the matter and necessary direction was given to that effect to the Secretary, DLSA, Murshidabad.

The accused person was even directed to participate in the proceeding. From the annexure appended to the petition, we find that on 29th July, 2022 learned Trial Court took up the case on board and disposed of the petition under Section 205 of the Cr.P.C. and 26th August, 2022 was fixed for consideration of charge.

However, this petitioner, being the complainant has challenged the said order before the Hon'ble Justice Tirthankar Ghosh in C.R.R. 3062 of 2022. From the order dated 5th January, 2023 passed by the Hon'ble Justice Tirthankar Ghosh, it appears that learned Chief Judicial Magistrate, Murshidabad has been directed to adjudicate the case being C.R.122 (C) of 2009. 16th January, 2023 was fixed for appearance of the complainant/petitioner before the learned Chief Judicial

Magistrate, Murshidabad who would pass an order adhering to the directions passed on 29th September, 2022.

There is nothing to hold that learned Magistrate willfully disobeyed the direction of this Court. On the contrary, there is nothing on record to show that the petitioner approached the DLSA, Murshidabad despite direction given to him.

In view of the aforesaid, we do not find any merit in this application. However, we expect that the learned Chief Judicial Magistrate, Murshidabad shall dispose of the criminal proceeding as expeditiously as possible.

With the aforesaid observation, the contempt application being CPAN 220 of 2023 is disposed of.

This order shall be communicated to the learned Chief Judicial Magistrate, Murshidabad by the Registration Administration (L&OM) for information and doing the needful.

(Siddhartha Roy Chowdhury, J.) (Soumen Sen, J.)