

20.2.2023
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SB
Ct. No.236

CRR 675 of 2011
CRAN 1 of 2011
CRAN 3 of 2012

In the matter of : Ranjan Sarkar

Mr. N. P. Agarwala
Mr. P. Bose, ... for the State

As usual none is appearing on behalf of the petitioner.

Instead of adjourning the matter *suo moto*, considering the age of the proceeding, I am inclined to dispose of the matter on merit based on materials available with the record.

This application under Section 482 of the Code of Criminal Procedure has been filed challenging the legality of the proceeding being C.R. No. 709 of 2009 pending before the learned Judicial Magistrate, 2nd Court, Siliguri.

Briefly stated that petition of complaint has been filed by one Mr. Subhas Chandra Agarwal, the opposite party no. 2 herein against the petitioner Ranjan Sarkar and other persons under Sections 120B /420/109/506 of the Indian Penal Code alleging inter alia that accused no. 1 Ranjan Sarkar approached the complainant with two unknown persons to acquire the Raipur Tea Estate at a consideration of Rs.38,00,000/- which was supposed to be deposited with the Debt Recovery Tribunal. Relying upon such narrative of Ranjan Sarkar the complainant Mr. Agarwal paid a sum of Rs.17,00,000/- by cash and cheque. The said amount was deposited with the Debt Recovery Tribunal on 29.11.2005 but in his own name. Thereafter Ranjan Sarkar entered into an agreement with accused company that is Amritpur Tea Company Limited in the month of November 2005 and further received

certain amount from one Ghanashyam Das Agarwal at Siliguri. According to the complainant he was induced by the accused Ranjan Sarkar to pay money and ultimately he has been duped and criminally intimidated. The petition of complaint was filed before the learned Chief Judicial Magistrate, Siliguri which was transferred to the Court of learned 2nd Judicial Magistrate, Siliguri for disposal and on 6th of April 2010 the learned 2nd Judicial Magistrate after examining Praveen Kumar Agarwal and Kartick Biswas under Section 200 of Cr.P.C. was pleased to issue process against the accused nos. 1, 2 and 3 under Sections 420/409/506/120B of the Indian Penal Code.

From the copy of the petition of complaint, I find that learned Trial Court while issuing process did not comply with the provision of Section 202 of Cr.P.C despite the fact that accused no. 2 is a resident of Calcutta and accused No. 3 Amritpur Tea Company Limited is also having its office beyond the territorial jurisdiction of the learned Magistrate, Siliguri.

Under such circumstances, I am inclined to quash the order dated 6th April, 2010 and direct the learned Judicial Magistrate to comply with the provision of Section 202 of the Code of Criminal Procedure before the proceeding further with the Complaint Case No. 709 of 2009.

With this direction, the revisional application is disposed of along with applications.

Let a copy of this order be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)