

09.01.2023

Item No.12
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 664 of 2021

**Rakesh Singh @ Rakesh Kumar Singh
versus
Dilip Kumar Agarwal**

In Re: An Application under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973.

Mr. Shibaji Kumar Das ... For the Petitioner.

In spite of service, none appears on behalf of the opposite party. Let the affidavit-of-service filed in Court today be kept on record.

Attention of the Court has been drawn to the order dated 22.01.2021 wherein the learned Magistrate after examining the complainant under Section 200 of the Code of Criminal Procedure was pleased to issue process under Sections 406/420/506 of the Indian Penal Code read with Section 120(B) of the Indian Penal Code. Attention of the Court has been drawn to the relevant address of the accused/petitioner which reflects that all the accused persons including the present petitioner were staying outside the jurisdiction of the learned Metropolitan Magistrate, 7th Court, Calcutta. There has been non-adherence of the provision under Section 202 of the Code of Criminal Procedure which is mandatory in view of the judgement of the Hon'ble Supreme Court in ***National Bank of Oman Vs. Barakara Abdul Aziz and Another*** reported in (2013) 2

Supreme Court Cases 488 and a series of judgements thereafter.

Accordingly, the order dated 22.01.2021 issuing process is hereby set aside.

The learned Magistrate is directed to conduct enquiry under Section 202 of the Code of Criminal Procedure. For the said purpose, the learned Magistrate would be at liberty to take assistance of the local police authorities. The police authorities, if they are engaged, would also communicate with the accused/petitioner to ascertain regarding the genuineness of the allegations made in the petition of complaint.

With the aforesaid observations, the revisional application being CRR 664 of 2021 is disposed of.

All pending connected applications, if any, are consequently disposed of.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)