

01.02.2023
Item No. 18
BR

CRR 855 of 2011

In the matter of: Mahesh Prasad and Ors.

..... petitioners

None is found present on behalf of the petitioner. Criminal revision is pending for nearly twelve years. Therefore, I propose to dispose of the application on merit based on materials available with the record.

Challenge in this application is to the order passed by learned Additional District and Sessions Judge, 1 Court, Siliguri passed in criminal revision No. 40 of 2010 whereby the order passed by learned Judicial Magistrate, 1st Court Siliguri on 9th June, 2010 in CR case No. 261 of 2008 was affirmed.

Fact of the case in brief is that in a Misc. proceeding the learned counsel representing for the complainant wanted to get the signature of the complainant admitted into evidence which was opposed by the accused person and learned trial Court admitted the same. Accordingly accused person challenged the order of learned trial Court by preferring a criminal revision before the learned Additional District and Sessions Judge. From the impugned judgment I find that the complainant wants to prove the petition of complaint in the criminal trial and it was admitted into evidence. Unlike FIR petition of complaint cannot be admitted into evidence but it can always

be used as the previous statement of the complainant and complainant can be confronted with such statement by the accused persons in course of trial. However, the signature of the complainant if learned trial Court consider it relevant or the purpose of adjudication, may be admitted into evidence, not the content of the complainant as a whole. Content of the petition of complaint is required to be proved by adducing evidence. It cannot be admitted as a document under the provision of law. Therefore, impugned order should not be allowed to remain in force.

The order passed by learned Additional District and Sessions Judge is set aside. The criminal revision is, thus disposed of.

The order of stay, if any, stands vacated.

Copy of this order be sent down to the learned trial Court for information and necessary action.

Urgent certified copy if applied therefor, be supplied upon compliance of usual formalities.

(Siddhartha Roy Chowdhury, J.)