

D/L14
02.08.2023
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C.R.R. 1811 of 2022

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

Uttam Gayen and another
Versus
The State of West Bengal and another

Mr. Debashis Banerjee
Mr. Rakesh Jana.
...for the petitioners.

Mr. Arijit Ganguly
Mr. Koushik Kundu.
...for the State.

Affidavit-of-service so filed be kept with the record.

Mr. Banerjee, learned advocate, appears on behalf of the petitioners and pursues his revisional application on the ground that under Section 188 of the Indian Penal Code, there is a bar under Section 195 of the Code of Criminal Procedure for proceeding with the case without the complainant having informed the concerned court.

Mr. Ganguly and Mr. Kundu, learned advocates, appear on behalf of the State.

I have perused the contents of the letter of complaint and orders so imposed. I find from the records of the case that under Section 251 of the Code of Criminal Procedure, the substance of the accusation was already read over to the petitioners to which they have pleaded not guilty and claimed to be tried and subsequently

the examination of the PW 1 has also commenced.

Having regard to the merits of the case, I have my doubts regarding the applicability of Section 188 of the Indian Penal Code, but at the same time, I express my doubt regarding the manner in which the proceedings are carried out under wrong sections of law, which should be reconsidered by the learned Magistrate while progressing with the case. It is not a case where no offence is made out, offence has been made out in this case. Learned Magistrate must apply the proper sections for further proceedings of the case. No interference is called for by this Court at this stage.

Accordingly, CRR 1811 of 2022 is disposed of.

Pending application, if any, is 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 of all requisite formalities.

(Tirthankar Ghosh, J.)