

24.04.2023

Item No.38
Ct.No.34
dc.

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

C.R.R. 1816 of 2021

**Smita Sen Roy
versus
Bipasha Sen Roy**

In Re: An Application under Sections 397/401 read with Section 482 of the Code of Criminal Procedure, 1973.

Mr. Sabyasachi Banerjee,
Ms. Aafreen Perveen ... For the Petitioner.

Affidavit-of-service filed in Court today be kept on record.

Mr. Banerjee, learned advocate appearing for the petitioner draws the attention of the Court to the petition of complaint and submits that the petition of complaint is lacking material particulars for issuance of process under Section 500 of the Indian Penal Code. Learned advocate has taken the Court through the relevant paragraphs as also the examination of the complainant under Section 200 of the Code of Criminal Procedure along with the witness so relied upon by the complainant.

I have considered the submission of the learned advocate and I find some substance in the contention advanced on behalf of the petitioner. So far as the allegations are concerned, the same at this stage do require further enquiry to be conducted for assessing the complicity of the accused/petitioner before this Court. For the said purpose, the learned Magistrate should conduct an enquiry under Section 202 of the Code of Criminal Procedure. If required,

the opinion of cyber expert may be obtained for assessing regarding the foundation of the case for creation of fake Facebook account and the relationship of the same with the accused/petitioner. For the time being, till the enquiry is conducted, the order dated 15.07.2021 issuing process against the accused/petitioner is hereby set aside.

Learned Magistrate after conducting the enquiry, as directed above, would decide whether to proceed under Section 203 of the Code of Criminal Procedure or under Section 204 of the Code of Criminal Procedure.

With the aforesaid observations, the revisional application being CRR 1816 of 2021 is allowed.

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.)