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CRR 2018 of 2016

**“Sansita” (Shop outlet) & Ors.
Versus
The State of West Bengal & Anr.**

Mr. Moyukh Mukherjee,
Mr. Abhijit Singh,
Mr. Sarthak Mondal ... for the petitioners.

Mr. Pravas Bhattacharya,
Mr. Mirza Firoj Ahmed Begg.

... for the State.

From the order dated 4th May, 2023, it is found that learned advocate Mr. Pravas Bhattacharya was requested to represent the State. In this circumstances, the name of the Mr. Bhattacharya be regularized.

This revisional application has been filed assailing the order dated 14th June, 2016 passed in connection with Case No. C-65 of 2015 arose out of a complaint lodged by Inspector, Minimum Wages and Inspector, Shops and Establishments Act alleging the commission of offence prescribed under Section 21 of the West Bengal Shops and Establishments Act, 1963 read with Rule 51 of the said Act.

Both the learned advocates on behalf of the State and on behalf of the petitioners are present.

Learned advocate appearing on behalf of the petitioners has stated that penalties prescribed under

Section 21 of the Act permits maximum fine of Rs.200/- for the first offence.

It is further submitted, from the written complaint it is seen that the same was lodged against the petitioners for the first time.

Learned advocate appearing on behalf of the petitioners has submitted that in spite of amount of penalties prescribed by the Act, 1963, learned Magistrate passed an order issuing warrant of arrest against the accused persons wrongly and without any jurisdiction.

In opposition to that learned advocate appearing on behalf of the State has submitted that the order impugned is liable to be set aside.

On careful scrutiny of the entire order dated 14.06.2016, it is found that on that date all four accused persons appeared in response to summons issued by the Court. But in course of hearing there was altercation between the learned Magistrate and learned advocate appearing on behalf of the accused persons. Order impugned further shows accused were granted bail with direction to furnish bond. It is also found that at 3.30 PM on that date bond were furnished, but that was not accepted by the learned Magistrate as accused persons did not remain in the Court room after passing order of bail by the learned Magistrate.

Tenor of the order is that the learned Magistrate took such extreme steps by issuing warrant only because

of altercation with the learned advocate, but the Magistrate ignored the very nature of the offence coming within the purview of West Bengal Shops and Establishments Act, 1963 for which punishment of maximum Rs.200/- has been prescribed. Learned Magistrate ought to have more considerate in terms of nature of the offence and amount of penalties prescribed under the Act.

In my opinion, learned Magistrate should not have taken any steps by issuing warrant in spite of furnishing bail bond by sureties on behalf of the accused.

In the aforesaid view of the matter, the order impugned stands set aside.

Learned Judicial Magistrate, 3rd Court, Sealdah, South 24 Parganas is requested to accept bond already furnished on behalf of the accused persons on 14.06.2016 and to proceed with the case in accordance with law. W/A, if issued, be recalled.

With this observation and direction the revisional application stands disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Bibhas Ranjan De, J.)