

01-08-2023
subha
Item no. 25
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
CRR 2473 of 2023
with
CRAN 1 of 2023

Mr. Soumyo Natta
-versus-
The State of West Bengal & Anr.

Mr. Apalok Basu
Mr. Subhankar Chakraborty
Ms. Ruchira Manna
.....for the petitioners.
Mrs. Anasuya Sinha
Ms. Mayukhi Mitra
...for the State.
Mr. Gunjan Kumar Sinha
.....for the pvt. opposite party.

Petitioner is directed to serve a copy of the revisional application upon Ms. Mayukhi Mitra, learned advocate who ordinarily appears on behalf of the State. Her appointment may be regularized by the concerned Authorities in due course.

The orders dated 20.01.2023, 04.03.2023, 15.05.2023 and 25.07.2023 passed in connection with Compliant case No. C-118 of 2023 were passed ignoring the provisions of Section 340 of the Indian Penal Code.

The learned Magistrate on the first date should not have directed the proposed accused to appear without an enquiry being conducted and a finding arrived at by the court as to what are the substantive offences which have been committed in the background of the complaint which has been filed by the applicant.

Accordingly, the learned Magistrate, if required, would

conduct an enquiry before coming to a finding regarding the nature of the offence which if at all committed and thereafter take a decision whether a case is made out for issuance of process or investigation. The manner in which the case has proceeded in the background of the complaint is in gross ignorance of provisions of law.

Accordingly, the orders dated 20.01.2023, 04.03.2023, 15.05.2023 and 25.07.2023 are set aside.

The learned Magistrate would afresh start the proceeding by conducting an enquiry, if required, by examining the complainant, his documents and other materials produced by him. The learned Magistrate for that purpose may seek assistance of the police authorities also or any government agency. The proposed accused on the first date without arriving at a finding regarding the substance of offence cannot be directed to appear before the court in an application under Section 340 Cr.P.C.

With the aforesaid observations, the present revisional application being CRR 2473 of 2023 along with application being CRAN 1 of 2023 is disposed of.

Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

[Tirthankar Ghosh, J]

