

01.05. 2023
Item No.16
Ali
Ct. no. 551

CRR 2571 of 2018
IA No.: CRAN/2/2019 (Old No.:CRAN/4182/2019)

Sushil Kumar Gupta & Ors.
Vs.
State of West Bengal & Anr.

Mr. Ayan Bhattacharjee,
Mr. Aditya Ratan Tiwary
Mr. Somdev Ash

.... for the petitioners.

Mr. Saswata Gopal Mukherjee, Ld. P.P.,
Mr. Imran Ali,
Ms. Debjani Sahu,

.... for the State.

The instant criminal revisional application has been preferred for setting aside of an order dated August 3, 2018 passed by the learned Metropolitan Magistrate, 9th Court, Calcutta in connection with G.R. Case No. 2556 of 2010 arising out of Park Street P.S. Case No. 134 of 2010 dated 16.7.2010 under Sections 93(4)(a)/93(4)(c)/93(6)/93(7) of the West Bengal Value Added Tax Act, 2003 read with Sections 403/420/120B/467/468/471 of the Indian Penal Code, 1860.

Learned advocate for the petitioners submits before this Court that the present petitioner No.-3 has resigned from the company as a Director in the year 1994 and the other petitioners have no connection in the alleged occurrence of offence, however the police conducted investigation and submitted a charge sheet. The petitioners have filed one application under Section 239 of CrPC which was turned out by the learned Magistrate. Hence, the criminal revisional application has been preferred.

It is the submission of the learned advocate for the petitioners that the impugned order passed by the learned court below suffers illegality and impropriety. He pointed out that the learned court below has not at all considered the points raised by them before the learned court below under Section 239 CrPC. It has been submitted by the learned advocate for the petitioners that the impugned order dated August 3, 2018 would show that the learned court below has considered the merit of the case of the present petitioners but legally the prayer has been turned down.

State appeared and submitted that necessary order may be passed.

Heard the learned advocate and perused the impugned order passed by the learned Magistrate on August 3, 2018. It appears that the impugned order passed by the learned Magistrate is a cryptic one and he has no assigned any reason for passing the impugned order. Moreover, the Magistrate must have passed an order in terms of the application filed by the petitioners before him under Section 239 CrPC. It appears before going into the merit of the case that learned Magistrate may be directed to re-hear the matter and disposed of the same by passing a speaking order.

Accordingly, CRR 2571 of 2018 is disposed of. The impugned order passed by the learned Magistrate is set aside.

Learned Magistrate is directed to re-consider the prayer of the petitioners under Section 239 CrPC. again and pass an appropriate order to that effect. The reason for passing the order must be assaigned there.

Any order of stay passed by this Court during the pendency of the instant criminal revisional application is hereby also vacated.

Learned Magistrate is directed to conclude the trial of this case as early as possible most preferably within two months from the date of receipt of this order.

Connected pending CRAN 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.

(Subhendu Samanta, J.)