

16.01.2023
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SB
Ct. No.236

CRR 2906 of 2006

In the matter of : Sri Arun Rai

The petitioner is a member of West Bengal Judicial Service, who has filed an application under Section 482 of Code of Criminal Procedure seeking an order to expunge certain remarks made by learned Additional Sessions Judge, Katwa against him while deciding a criminal revision being Criminal Revision No. 28 of 2006 Jamal Sk. & Ors. vs. The State of West Bengal on 10.8.2006.

Briefly stated as Judicial Magistrate, 3rd Court, Katwa, the petitioner received an application from the accused person seeking supply of copies of complete set of the documents, the prosecution wanted to rely upon during trial. On 07.3.2005, the prayer of the accused / petitioners was allowed and direction was given to the copying department to supply the copy but it was not complied with which compelled the accused persons to file another application on 07.10.2005 and this time learned Trial Court directed the Head Comparing clerk of the copying department to supply one set of complete copy on priority basis. But the said order was not attended by the department. On 01.02.2006 accused / petitioner by filing another application made an attempt to bring the ground reality to the notice of the learned Judicial Magistrate when learned Judicial Magistrate was pleased to reject the application with the observation that copy of all the documents were supplied on

13.8.2004 and 29.12.2004 and thus the petition dated 07.10.2005 was rejected by the order dated 01.02.2006. The accused / petitioner challenged the Order No. 11 dated 01.02.2006 before the learned Additional Sessions Judge, Katwa in Criminal Revision No. 28 of 2006. Learned Additional Sessions Judge, Katwa after considering the materials was pleased to set aside the Order No. 11 dated 01.02.2006 indicating that the learned Judicial Magistrate did not have the authority to reject or review his own order. But while passing judgement, learned Additional Sessions Judge, observed "Ld. Court below has got no minimum sense of natural justice as it appears from the mode and manner of passing the impugned order."

Observation made by Learned Appellate Court on judicial forum, was neither relevant nor necessary for the purpose of adjudication of the lis. It was unwarranted and contrary to settled principle of law. I, therefore, direct deletion of the remarks quoted above.

Thus, the revisional application is allowed.

The remark appearing in the judgement as quoted hereinabove, stands expunged.

Let a copy of the order be sent to the learned Additional Sessions Judge, Katwa for information and compliance.

(Siddhartha Roy Chowdhury, J.)