

30.1.2023
Item No.16
BR

CRR 2329 of 2010
With
CRAN 1 of 2011 , CRAN 3 of 2012

**In the matter of : Dilip Kukmar Mondal and
another**

.....petitioner

Mr.Milon Mukherjee, Senior Advocate,
Mr. Biswajit Manna,
Mr. Smartajit Sarkar

.... For the Petitioners

Mr. Binay Panda,
Mr. Subham Bhakat

.... For the State

This criminal revision challenges the judgment passed by learned Additional Sessions Judge,Birbhum at Rampurhat in criminal revision no. 20 of 2008. By the impugned judgment. Learned Additional Sessions Judge was pleased to set aside the judgment passed by learned Judicial Magistrate, 2nd Court, Rampurhat with further direction to examine the de facto complainant and two other witnesses and to adjudicate the case afresh by passing a separate judgment. Mr. Mukherjee, learned senior counsel fairly submits that the application under consideration seeks the attention of the Court on a specific law point as to

whether the de facto complainant has the locus standi to file the criminal revision before the learned Additional Sessions Judge and whether learned Additional Sessions Judge had the jurisdiction to entertain such application .

From the attending facts of the case it is admitted that Krishna Nandan Moni filed a petition of complaint against Dilip Kumar Mondal and Bipad Taran Mondal for allegedly committing offence of forgery and cheating within the meaning of the Indian Penal Code. The said petition of complaint was forwarded under Section 156 (3c) of Cr P C to the Officer-in-Charge of Mayureswar P.S. and Mayureswar P.S. Case No. 33 of 1993 was registered. Police took up investigation which culminated into submission of charge sheet against both the accused persons. The accused persons stood the trial of the case before the learned 2nd Court of Judicial Magistrate, Rampurhat being GR Case No. 227 of 1993 and learned trial Court after considering the evidence adduced by the prosecution witnesses, was pleased to record an order of acquittal under Section 248 (1) of the Criminal Procedure Code. The said order of acquittal was challenged before the learned Additional Sessions Judge by way of criminal revision which gave birth to the judgment impugned.

The incident took place on 22nd August, 1989 when the right to appeal was not given to the victim. Admittedly, State did not prefer any appeal.

Under such circumstances, the remedy available under the law was to invoke the provision of sub-Section 4 of Section 401 of Criminal Procedure Code. Learned Additional Sessions Judge however, had no jurisdiction to entertain the criminal revision. The impugned judgment is glaring example of transgression jurisdiction, not vested upon the learned Additional Sessions Judge.

Under such a situation, I am of the view that the impugned order cannot be allowed to remain in force, to avert the abuse of process of law and should be quashed which I accordingly do.

Thus, the criminal revision is disposed of. Application, if any is also disposed of.

Let a copy of the order be sent down to the learned Trial Court for information and necessary action.

Urgent certified copy, if applied therefor, be supplied upon compliance of usual formalities.

(Siddhartha Roy Chowdhury, J.)