

23.02.2023
Ct. No.34
S/L No.20
KS

C.R.R.2555 of 2021
With
IA No. CRAN 3 of 2022
Moumit Maji
-Vs.-
Deb Kumar Karan & Anr.

Md. Sabir Ahmed

Ms. S. Biswas

..... For the Petitioner

Mr. S. Bapuli

Mr. B. Bhattacharya

.....For the State

Mr. J. Banerjee

.....For the O.P. No.1

The subject matter of this revisional application relates to challenging the proceeding being, C.R. Case No.270 of 2021 pending before the Learned A.C.J.M. Contai, District – Purba Medinipur under Sections 448/ 509 of the Indian Penal Code. The order dated 07.10.2021 reflects that the learned A.C.J.M., Contai was pleased to take cognizance of the offence and after examination of documents/ initial evidence under Section 200 of the Code of Criminal Procedure, was pleased to issue process under Section 204 of the Code of Criminal Procedure holding alleged commission of offence under Sections 448/509 of the Indian Penal Code.

The subject matter of the complaint do reflect the petitioner before this Court i.e. accused no.1 as per petition of complaint is the Divisional Engineer & Station Manager, Contai – CCC, W.B.S.E.D.C.L.

It has been pointed out by learned advocate appearing for the petitioner as well as the Additional Public Prosecutor appearing on behalf of the State that one F.I.R. being, Contai Police Station Case No.373 of 2021 dated 30th September, 2021 was registered for investigation under Sections 341/ 332/ 353/ 506 of the Indian Penal Code. Documents have been placed which reflects that the accused no.2 as per petition of complaint also addressed his experience to the present petitioner which was received by the office of the accused no.1.

In view of the ratio settled by the Hon'ble Supreme Court in *Sankaran Moitra –Vs.- Sadhna Das & Anr.* reported in (2006) 4 SCC 584, that while considering an application on the issues relating to sanction the High Court is empowered to rely on the relevant records, I am of the view that the complaint case so far as the present petitioner is concerned should have been proceeded with by the learned Magistrate only when the sanction was granted by the appropriate authority under Section 197 of the Code of Criminal Procedure. The nature of allegations made in the petition of complaint even if it is accepted to be true, do not make out any offence that the present petitioner has in any manner exceeded his authority and was only acting in discharge of his duty.

Accordingly, the order dated 07.10.2021 taking cognizance of the offence complained of in respect of C.R. Case No.270 of 2021 pending before the Learned A.C.J.M. Contai, District – Purba Medinipur is hereby quashed. Learned Magistrate will be able to proceed with the

case only after sanction is obtained from the appropriate authority and thereafter placed before the learned A.C.J.M., Contai, Purba Medinipur. Further proceedings of C.R. Case No.270 of 2021 as such, be kept in abeyance till sanction is obtained and submitted before the Learned Court.

Consequently, the revisional application being, C.R.R.2555 of 2021 is partly allowed.

Pending applications, if any, are consequently disposed of.

Learned advocate appearing for the complainant/opposite party no.1 has placed the electricity bills of the relevant period. The electricity bills be returned to the learned advocate appearing for the complainant/opposite party no.1.

Case Diary was produced before this Court by the learned Additional Public Prosecutor and the same has been returned after perusal.

All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)