

Item No.47
Ct.No.34
dc.

C.R.R. 2659 of 2021

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973.

Mr. Ayan Bhattacharjee,
Md. Zohaib Rauf,
Mr. Suman Majumdar,
Ms. Ritu Das ... For the Petitioner.

Mr. Bhattacharjee, learned advocate appearing for the petitioner at the inception draws the attention of the Court to an earlier order being passed in respect of another accused person. It has been submitted that the present petitioner happens to be an Editor of a newspaper. Learned advocate submits that although in the earlier order, there was liberty granted to take up the points canvassed in the revisional application at the stage of Section 251 of the Code of Criminal Procedure, yet it would be palpable from the records of this case that there has been non-compliance of Section 202 of the Code of Criminal Procedure. Two witnesses have been examined in this case as pointed out by the learned advocate for the petitioner, but in spite of the same, the order issuing process does not reflect compliance of both the provisions of Sections 200 and 202 of the Code of Criminal Procedure. Learned advocate intends to join an issue so far as the issuance of process is concerned.

Ordinarily, this Court does not empower or delegate the learned Magistrate to deal with such an issue. However,

having regard to the fact that there will be a conflict in the order passed on 05.01.2023 and the present revisional application which is in respect of the same case, but of a different accused, I grant liberty to the learned trial court that at the stage of Section 251 of the Code of Criminal Procedure, if the present petitioner raises issue relating to non-compliance of Section 202 of the Code of Criminal Procedure, learned court while adjudicating the issue relating to the substance of the accusations should also take into account the consideration as to whether there was any scope of false implication of the present petitioner because he was residing outside the territorial jurisdiction of the said court.

It has been informed that the petitioner is a resident of Bidhannagar, Kolkata. Under such circumstances, I direct that the lawyer representing the accused be granted liberty to represent the petitioner at the stage of Section 251 of the Code of Criminal Procedure.

Learned Magistrate would grant liberty firstly for hearing on the issues relating to the contentions which are stated above and thereafter will proceed with Section 251 of the Code of Criminal Procedure.

The petitioner would be at liberty to challenge the issue subsequently, if situation so arises.

With the aforesaid observations, the revisional application being CRR 2659 of 2021 is disposed of.

All pending connected 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.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)