

05.4.2023
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AB
Ct. No.236

CRR 4239 of 2011
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CRAN 2 of 2011

In the matter of : Kausik Das

Despite notice none is appearing on behalf of the petitioner.

This criminal revision is pending since 2011, therefore I do not find any reason to adjourn the proceeding suo motu. Rather I am inclined to dispose of the application on merit.

This criminal revisional application challenges the order dated 29th September, 2010 passed by learned Sixth Court of Metropolitan Magistrate in Case No. C-4113 of 2010.

Briefly stated the petitioner as Enforcement Officer, Directorate of Enforcement, Foreign Exchange Management Act, 1999, Government of India, Ministry of Finance filed a petition of complaint against Sri B.R. Sinku @ Budhi Ram Sinku before the learned Chief Metropolitan Magistrate, Calcutta under Section 403, 406, 409 of the Indian Penal Code. The proceeding was transferred to the Court of learned Sixth Metropolitan Magistrate for disposal. Learned Court after considering the petition of complaint refused to pass an order under Section 204 of Cr.P.C. on the ground of

want of sanction and on the ground of limitation. The cause of action for the case as disclosed in the petition of complaint arose on 30th October, 1996 and offence alleged to have been committed under Section 409 of the I.P.C. cannot be considered in the light of Section 468 of the Cr.P.C. since the prescribed punishment is imprisonment for life or imprisonment of either description for a term which may extend to 10 years along with fine. The petition of complaint had been taken out by the Enforcement Officer and sanction for prosecution at the time of taking cognizance was not the sine qua non, particularly when the accused person had retired on superannuation.

Under such circumstances the order impugned in my opinion should not be allowed to remain in force and should be set aside which I accordingly do. The order dated 29th September, 2010 stands quashed.

The learned Trial Court is directed to proceed with the case being C-4113 of 2010 according to law.

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

(Siddhartha Roy Chowdhury, J.)