

22.02.2024

Item No.10
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 222 of 2024

In the matter of : **Rohit Kumar Saraf** ... Petitioner.

Mr. Abhimanyu Banerjee,
Mr. Gaurav Dutta ... For the Petitioner.

Mr. Debashis Roy, Ld. P.P.,
Mr. Navanil De ... For the State.

Affidavit-of-service and supplementary affidavit filed on
behalf of the petitioner be kept with the record.

The main thrust of argument of the present petitioner is that an application under Section 239 of the Code of Criminal Procedure may be considered by the jurisdictional court. I find from the records of the case that the records of Alipore P.S./D.D. Case No. 145 of 2019 under Sections 3,4,5,7&18 of the Immoral Traffic (Prevention) Act and Section 120B of the Indian Penal Code is still pending before the learned Chief Judicial Magistrate, Alipore. So far as the Act is concerned and the nature of offence complained of the trial is to take place before a Special Court if it has been established.

Learned advocate for the petitioner submits that two of the accused persons are still absconding. The petitioner has preferred an application under Section 239 of the Code of Criminal Procedure on 21.06.2023. Such application at this stage cannot be considered by the learned Magistrate. The learned Magistrate will exhaust the process of law so far as the absconding accused persons are concerned and thereafter

commit or transmit the case records to the appropriate court. The court concerned would take into account as to whether the application under Section 239 of the Code of Criminal Procedure or Section 227 of the Code of Criminal Procedure is applicable and would not restrict itself to the nomenclature of the said petition and dispose of the same in accordance with law as expeditiously as possible.

The learned Magistrate is directed that if after exhausting the process, all the accused persons are not available before the court, the learned trial court would split up the trial and take steps as directed above.

With the aforesaid observations, the revisional application being CRR 222 of 2024 is disposed of.

Pending connected application, if any, is consequently disposed of.

All concerned 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.)