

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

CRR 224 of 2023

(Assigned)

Arun Kumar Singhania

Vs

The State of West Bengal & Anr.

With

CRR 225 of 2023

(Assigned)

Arun Kumar Singhania

Vs

The State of West Bengal & Anr.

With

CRR 226 of 2023

(Assigned)

Arun Kumar Singhania

Vs

The State of West Bengal & Anr.

With

CRR 227 of 2023

(Assigned)

Arun Kumar Singhania

Vs

The State of West Bengal & Anr.

For the petitioner :Mr. Satadru Lahiri, Adv.
Mr. Jyotirmoy Talukder, Adv.

For the State :Mr. Rana Mukherjee, Adv.
in CRR 224,225,226, Mr. Bidyut Kumar Ray, Adv.
227 of 2023 Mrs. Sima Biswas, Adv.

Heard On : :17.05.2024,10.06.2024,
25.06.2024, 10.07.2024,
05. 08. 2024, 13.08.2024

Judgment On : **:20.09.2024**

Bibhas Ranjan De, J. :

1. All these revision applications arising out of the self same cause of action and having identical factual build up and circumstances, shall be disposed of via this common judgment.

CRR 224 of 2023:-

2. The aforesaid revision application has been preferred with a prayer for quashment of the proceeding being Complaint Case No. C-15165 of 2014 under Section 21 (1) of the West Bengal Shop & Establishments Act, 1963 (hereinafter referred to as Act of 1963) and Rule 51 of the West Bengal Shop & Establishment Rule (hereinafter referred to as Establishment

Rule) for alleged violation of Rule 54 (1)/54(2)/54(3) of the Establishment Rule, presently pending before the Ld. Chief Judicial Magistrate (for short CJM), Alipore, South 24 Parganas.

Backdrop:-

3. The main allegations leveled in the complaint is to the effect that the petitioner is an employer of the firm under the name and style of M/s. 'Auto Life' within the meaning of respective provisions of Act of 1963. The complainant/opposite party no. 2 allegedly made an inspection there and found several violations like non display of registration certificate, Form G in the Establishment, Form H in the Establishment which attract penal consequences under the specific provisions mentioned hereinabove. It is further alleged that the petitioner was directed to submit compliance report by 7th July, 2014 but he failed to explain the violation in his appearance on 28.04.2014. Therefore, the petitioner committed the offences alleged for which he was liable to be punished and as a sequel the complainant/ opposite party no. 2 lodged a petition of complaint before the Ld. CJM, Alipore, who in tern, on 01.03.2014 issued summons against him upon receipt of the

said complaint. Being aggrieved by and dissatisfied with the said proceeding, the petitioner has preferred this revision application under Section 482 of the Code of Criminal Procedure (for short CrPC).

CRR 225 of 2023:-

4. This revision application has been preferred with a prayer for quashment of the proceeding being Complaint Case No. C-15162 of 2014 under Section 11(a)/(b)/(c)/(d)/16(6) read with Rule 6 (1) and Section 16(1) of the Act of 1963 and Rule 48 of the Establishment Rule presently pending before the Ld. C.J.M. Alipore, South 24 Parganas.

Backdrop:-

5. When the opposite party no. 2 visited the establishment of the petitioner on 04.07.2014, several infringements like no substantiation of the fact that whether leave is given as per provision, whether renewal is done or not, registration is done or not, no record of any visit book were detected and thereafter the petitioner was directed to report compliance on 07.07.2014 but even though appearance was made by the petitioner on 28.07.2014, no proper explanation was furnished by the petitioner. Therefore, the petitioner in view of the aforesaid

contravention was liable to penal consequences under the specific provisions mentioned above and accordingly the complainant/ opposite party no. 2 lodged a petition of complaint before the Ld. CJM, Alipore, who in turn, on 01.03.2014 issued summons against him upon receipt of the said complaint. Being aggrieved by and dissatisfied with the said proceeding, the petitioner has preferred this revision application under Section 482 of the Code of Criminal Procedure (for short CrPC).

CRR 226 of 2023:-

6. The instant revision application has been preferred with a prayer for quashment of the proceeding being Complaint Case No. C-15163 of 2014 under Section 21(1) of the Act of 1963 and Rule 51 of the Establishment Rule for alleged violation of Rule 40/ 52 (1) of the Establishment Rule read with Section 17(1)/16(4)(a) of the Act of 1963 read with Rule 5 of the Establishment Rule presently pending before the Ld. C.J.M. Alipore, South 24 Parganas.

Backdrop:-

7. While visit by the opposite party no. 2 on 04.07.2014 to the establishment of the petitioner, certain infringements like not

producing the record of over time in Form U, Register of persons employed in Form W, no making of changes were detected by the opposite party no. 2. Thereafter the petitioner was directed to report compliance on 07.07.2014 but even though appearance was made by the petitioner on 28.07.2014, no proper explanation was furnished by the petitioner. Therefore, the petitioner in view of the aforesaid contravention was liable to penal consequences under the specific provisions mentioned above and accordingly the complainant/ opposite party no. 2 lodged a petition of complaint before the Ld. CJM, Alipore, who in turn, on 01.03.2014 issued summons against him upon receipt of the said complaint. Being aggrieved by and dissatisfied with the said proceeding the petitioner has preferred this revision application under Section 482 of the Code of Criminal Procedure (for short CrPC).

CRR 227 of 2023:-

8. Present revision application has been preferred with a prayer for quashment of the proceeding being Complaint Case No. C-15164 of 2014 under Section 21(1) of the Act of 1963 and Rule 51 of the Establishment Rule for alleged violation of Rule 11(1)/ 12 (1) of the Establishment Rule read with Section 16(3)

of the Act of 1963 presently pending before the Ld. C.J.M. Alipore, South 24 Parganas.

Backdrop:-

9. During visit by the opposite party no. 2 on 04.07.2014 to the establishment of the petitioner, certain infringements came to the notice of the opposite party no. 2 like non display of registration certificate, non display of Form G, Form H in the establishment. Thereafter, the petitioner was directed to report compliance on 07.07.2014. But, even though appearance was made by the petitioner on 28.07.2014, no proper explanation was furnished. Therefore, the petitioner in view of the aforesaid contravention was liable to penal consequences under the specific provisions mentioned above and accordingly the complainant/ opposite party no. 2 lodged a petition of complaint before the Ld. CJM, Alipore, who in turn, on 01.03.2014 issued summons against him upon receipt of the said complaint. Being aggrieved by and dissatisfied with the said proceeding the petitioner has preferred this revision application under Section 482 of the Code of Criminal Procedure (for short CrPC).

Arguments Advanced:-

10. Ld. Counsel, Mr. Satadru Lahiri appearing on behalf of the petitioner in all the aforementioned revision applications has mainly canvassed his argument on the following points which are summarized as follows for brevity of discussion:-

- Mr. Lahiri has contended that the Ld. CJM, Alipore has passed the impugned order in a pre-typed cyclostyle order sheet format which is in complete deviation of Rule 183 of the Criminal Rules and Orders.
- The cognizance for the commission of the alleged offences has been taken under Section 21 of the Act of 1963 for the alleged violation of respect rules of the Establishment Rules, which is not maintainable in the eye of law. Whereas the cognizance should actually have been taken under Rule 51 of the Establishment Rules for the alleged offences.
- The Ld. CJM before taking cognizance of the alleged offence and issuance of process against the petitioner did not take proper note of the fact that no enquiry was conducted under Section 202 of the CrPC which is a mandatory provision in dealing with the cases of the nomenclature at

hand with regard to territorial limit. Therefore, the impugned order has become non-est in the eye of law.

- The petition of complaint does not contain any name/details of the witnesses appended thereto and in terms of Section 204(2) of the CrPC, no process should be issued unless list of witness is filed in connection with the complaint.
- In terms of Section 204(4) of the CrPC, the complainant is bound to deposit the requisite fees within a reasonable period but in the present revision applications the processing fees has been deposited after delay of more than 5 years and no feasible explanation has been furnished by the petitioner for the delay caused. Therefore, Ld. CJM has no scope to condone inordinate delay of about 5 years in depositing the requisite fees and should have duly dismissed the complaint.
- The petitioner herein in connection with all the revision applications has been prosecuted for commission of alleged violations of certain Sections of the Act of 1953 and the Rules of Establishment Rules respectively. The prosecution of alleged offences is subject to conducting

inspection/enquiry in the manner as prescribed and upon compliance of certain mandatory provisions mentioned under the Establishment Rules which cannot be circumvented in any manner. The envisaged mandatory provisions are as follows:-

“Rule 41-Duties of Inspectors:

(3) An inspector shall inspect every shop and every establishment within the local area for which he is appointed at least one in every three months.”

Rule 42: Submission of diary by Inspector.

Every Inspector shall keep a file of the records of his inspections and maintain a diary in Form V in respect of the work done by him every month and shall submit to the officer to whom he is subordinate by the 15th day of every month such diary showing the work done in the shop preceding month. A copy of the said diary shall also be retained by the Inspector”

Rule: 46- Method of Inspection

(3) if the Inspector during his inspection of any shop or establishment finds any deviation from the forms prescribed in these rules or any other defect in the matter of maintenance of forms, registers, records and documents to be maintained under these rule he shall pass orders or make recommendations for remedying or removing such deviation from forms or defects in the maintenance thereof and in such a case, he shall either endorse the same in the visit book maintained by the shop-keeper or employer under rule 48 or he shall send a copy of his inspection notes to the shop or establishment within fourteen days from the date of inspection.”

Rule 49: Co-operation with the inspector:

(1) Any demand by an Inspector for any information or production of any document relating to the working of the Act, if made during the course of an inspection of any shop or establishment, shall be complied with by the shop- keeper or employer concerned forthwith, if the information can be made easily available in the shop or establishment, and if not so available within fifteen days of receipt thereof."

Rule 50: Appeal from the Inspector's orders or recommendations.

(1) A shop-keeper or an employer may, within fifteen days of the date on which an Inspector endorse an order or recommendation under sub-rule

(3) of rule 46 in the visit book ac of the receipt of the copy of inspection note relating to any order passed or recommendation made by an Inspector, as the case may be, in respect of the shop or establishment concerned, appeal against such order or recommendation to such authority as the Government may appoint in this behalf, or until such authority is appointed, to the Government, and such authority or the Government, as the case may be, may confirm, modify or re- verse the order or recommendation appealed against.

(2) The notice of appeal shall be in the form of a memorandum setting forth concisely the grounds of objection to the order or recommendation against which the appeal is preferred and bearing a Court-fee stamp of fifty paise and shall be accompanied by a copy of the order or recommendation appealed against."

- But in the present cases the specific chronology of the Rules prescribed under the Establishment Rules indicates that prosecution of the employer for alleged violation of the respective provision of the Act of 1963 and Establishment

Rules, is only possible after due written communication of recommendation to the employer and while in spite of communication/rectification/recommendation has not been effected/complied with within the prescribed statutory period, no prosecution is maintainable in violation of such rules.

- Before parting with, Mr. Lahiri has submitted that perusal of the petition of complaint indicates that the language of the said complaint is completely vague and only restricted to quotation of the language of the Sections without going into detail about how and in which manner the violation has taken place and after appreciation of allegations leveled in the complaint it does not satisfy any essential ingredient of any of the offences alleged. The impugned proceeding is a prosecution under a special statute which clearly mandates pre-requisites of certain conditions before taking cognizance. In terms of Section 22 of the Act of 1963, the complaint must be by an inspector duly appointed under Section 19 of the Act. There is no contemporaneous material on record that the complainant is an authorized shop inspector who can file the complaint. Therefore, the

impugned order of taking cognizance and issuing process against the petitioner in connection with the criminal prosecutions, is not maintainable as no case can be made out and hence further continuation of the impugned proceedings for commission of alleged offences will be a gross abuse of the process of Court.

11. In support of his contention, Mr. Lahiri has relied on the following cases:-

- ***Sharmistha Chowdhury & Anr. vs State of West Bengal & Ors. reported in 2017 SCC Online Cal 9902,***
- ***Chandi Charan Garani & Ors. Vs State of West Bengal 2021 SCC OnLine Cal 3788***
- ***National Bank of Oman Vs. Bharakara Abdul Aziz & Anr (2013) 2 SCC 488***
- ***Abhijit Pawar Vs. Hemant Madhukar Nimbalkar & Anr. reported in (2017) 3 SCC 528***
- ***Deepak Gaba & Ors. Vs State of Uttar Pradesh & Anr reported in (2023) 3 SCC 423***
- ***Modeboyina Raghavalu vs Oduru Narasa Reddi & eight others, (1937) ILR (Madras Series) 515***

- ***Bireswar Banerji vs Emperor, (1945) ILR (Calcutta Series) 262.***
- ***Neelu Chopra & Anr. vs. Bharti, (2009) 10 SCC 184.***
- ***J. Th. Zwart & Ors. vs. Indrani Mukherjee, (1989) SCC OnLine Cal 289.***

12. Per contra, Ld. Counsel, Mr. Rana Mukherjee, appearing on behalf of the State has refuted the contention of Mr. Lahiri and has contended that:-

- There is no requirement for any inquiry under Section 202 of the CrPC as the prosecution is against the employer of the shop and the shop is within the jurisdiction.
- Mr. Mukherjee has contended that the complaint clearly spells out the details of the contraventions made by the accused as the employer within the meaning of Section 2 (4) of the Act of 1963.
- With regard to the claim of the petitioner that the complaint did not disclose the specific role of the accused, Mr. Mukherjee has submitted that the accused is the employer within the meaning of Section 2 (4) of the Act of 1963 and as such he is responsible for all the affairs of his

establishment and therefore there is no requirement to disclose specific role of the accused.

- Mr. Mukherjee has further contended that legality of the order taking cognizance and issuing summons is challenged long after the petitioner herein appeared before the Trial Court and thus irregularity, if any, has been regularized and therefore the accused has waived off his right to challenge such order the moment he entered appearance. Ld. Counsel has also highlighted the long gap of nine years in preferring the challenge in support of this contention.
- In addition to that, Mr. Mukherjee has discussed the settled proposition that whether the allegation made in the complaint is true or not has to be ascertained in the course of trial and the High Court while exercising inherent jurisdiction under Section 482 of the CrPC, cannot embark into a mini trial.
- Before parting with, Mr. Mukherjee has argued that for fulfillment of the purpose of Section 200 & 204 of the CrPC, all that is required is whether a prima facie case is established and a detailed enquiry is neither warranted nor

required by law as the Magistrate's scope of enquiry is extremely limited.

13. In support, Mr. Mukherjee has referred a couple of cases which are as follows:-

- ***Varindmal vs. Radha Krishna and others*** reported in ***1949 SCC OnLine Ajm 33***
- ***Smt. Nagawwa vs. Veeranna Shivalingappa Konjalgi and others*** reported in ***(1976) 3 Supreme Court Cases 736.***

Ratio of the cases relied on behalf of the parties:-

For the petitioner:-

- ***In Sharmistha Chowdhury*** (supra) & ***Chandi Charan Garani*** (supra) Hon'ble Co-ordinate Bench of this Court observed its grave concern with the practice of recording orders by taking external assistance particularly police officers in the matter of recording and/or transcribing orders of the Court in grave violation of Rule 183 of the Calcutta High Court Criminal (Subordinate Courts) Rules, 1985 and further held that order of taking cognizance without application of any judicial mind is *non est* in the eye of law.

- In the cases of ***National Bank of Oman*** (supra), ***Abhijit Pawar*** (supra) & ***Deepak Gaba*** (supra) the Hon'ble Apex Court handed down that it is incumbent upon the Magistrate to comply with the mandatory provision of Section 202 of the CrPC before issuance of process.
- In ***Modeboyina Raghavalu*** (supra) & ***Bireswar Banerji*** (supra) it was held that the Magistrate has discretionary power to dismiss the complaint in case of non-compliance of specific provision of the Section 204(2) & Section 204 (4) of the CrPC.
- In ***Neelu Chopra*** (supra) the Hon'ble Supreme Court opined that in order to lodge proper complaint mere mentioning of the Sections and the language of those Sections is not the 'be all and end all' of the matter. What is required to be brought to the notice of the Court is the particulars of the offence committed by the accused and the role played by him in commission of that offence. In ***J. Th. Zwart*** (supra) the Co-Ordinate Bench of this Hon'ble Court also led emphasis on the fact that the complaint must contain the pith and substance of primary facts on the basis of which

the allegation of the commission of an offence is being made.

For the state:-

- In ***Smt. Nagawwa (supra)*** the Hon'ble Apex Court laid down that the Magistrate while determining whether a process should be issued or not, has an undoubted discretion and that discretion has to be judicially exercised. Once the Magistrate exercises his jurisdiction, neither the High Court nor even the Hon'ble Apex Court can substitute its own discretion for that of the Magistrate or to examine the case on merits with a view to find out whether or not the allegations in the complaint, if proved, would ultimately end in conviction of the accused.
- In ***Varindmal (supra)*** it was held that there is no necessity in ordering a fresh preliminary enquiry after the accused had already appeared before the Magistrate. It was further held that an enquiry under Section 202 of the CrPC is discretionary and once summonses are issued to the accused, the matter could not be re-opened by ordering a fresh enquiry under Section 202 of the CrPC.

Decision with reasons:-

14. It is well settled that the High Courts can only exercise inherent jurisdiction under Section 482 of the CrPC in the following myriad kinds of cases:-

(i) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(ii) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(iii) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(iv) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(v) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(vi) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(vii) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

15. The general and consistent law laid down by the Hon’ble Apex Court in exercising inherent jurisdiction under Section 482 of the CrPC in a plethora of decisions is as follows:-

- The inherent power of High Court under Section 482 of CrPC for quashing has to be exercised sparingly with circumspection and in the rarest of rare cases.

- Exercising of inherent power under Section 482 of Code of Criminal Procedure (for short CrPC) is not the rule but it is an exception. The exception is applied only when it is brought to the notice of the court that grave miscarriage of justice would be committed if the trial is allowed to proceed where the accused would be harassed unnecessarily if the trial is allowed to linger when prima facie it appears to Court that the trial would likely be ended in acquittal.

16. At the stage of discharge and /or while exercising the power under Section 482 of the CrPC, the Court has a very limited jurisdiction and is only required to consider “whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not”. In addition to that the Hon’ble Apex Court has also held that at the **initiation of the Criminal Proceedings, whether the criminal proceedings are malicious or not, is not required to be considered at the stage of quashing as it is required to be considered only at the conclusion of the Trial.** The only material requirement which is to be considered is a prima facie case and the material collected during investigation, which warrants the accused to be tried.

- 17.** In all the four cases one Mr. Kausik Sen, Inspector, Shops and Establishments Act, office of the Labour Commissioner, Church Lane visited M/s. Auto Life and during inspection he came across certain irregularities which attracted violation of different provisions of Act of 1963 and Establishment Rules. Thereafter, said Inspector Sen lodged separate sets of complaint under Sections already mentioned above before Court of Ld. CJM, Alipore on 29.10.2014 who then took cognizance of all the complaints on 03.1.2014 and accordingly issued process.
- 18.** Being aggrieved by and dissatisfied with the said order petitioner filed application for quashing of all the proceedings under Section 482 of CrPC.
- 19.** Mr. Lahiri pointed out few irregularities in the impugned order of the Ld. CJM who in a pre-typed cyclostyled order sheet took cognizance which is in complete deviation of Rule 183 of the Criminal Rules and Orders. In addition to that he has added that the cognizance was taken under Section 21 of the Act of 1963 for violation of the Rules of Establishment Rules instead of taking cognizance under Rule 51 of the Establishment Rules for the alleged violation.

20. In support of this contention, Mr. Lahiri relied on the case of ***Sharmistha Chowdhury*** (supra) wherein Hon'ble Co-ordinate Bench of this Court dealt with a prayer for statutory bail and noticed the practice of recording order with the assistance of Police personnel from the General Registrar Section in violation of Rule 183 of the Criminal Rules and Orders and laid down few guidelines to be followed by the Judicial Officers.

21. Now coming to the issue raised by Mr. Lahiri that cognizance of the alleged offences has not been taken in accordance with law, in my view, does not necessarily come within the purview of the parameters for quashing of a criminal proceeding. Moreso, the alleged defect pointed out by Mr. Lahiri cannot be said to be incurable one subsequently, if required.

22. Mr. Lahiri further contended that no enquiry was conducted under Section 202 of the CrPC which is mandated as the permanent residence of the accused is beyond the territorial limit of the Ld. Magistrate who took cognizance.

23. Moreso, Mr. Lahiri has submitted that in terms of Section 204(2) of the CrPC no process is allowed to be issued unless

list of witness is filed/submitted in connection with the petition of the complaint but in the subject prosecutions the complainant did not file any list of witnesses which is nothing but a blatant ignorance of the settled mandate of law.

24. Lastly, Mr. Lahiri has highlighted the inordinate delay of 5 years in deposition of the processing fees which is also not allowed as per Section 204 (4) of the CrPC.

25. Mr. Lahiri has drawn my attention to these irregularities mentioned hereinabove to substantiate his prayer for quashing of the proceedings.

26. At this juncture, I would like to reproduce Section 461 of the CrPC which deals with the irregularities that vitiate the proceedings:

“ 461. Irregularities which vitiate proceedings.

1. - If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely –
 - [\(a\)](#) attaches and sells property under Section 83;
 - [\(b\)](#) issues a search-warrant for a document, parcel or other thing in the custody of a postal or telegraph authority;
 - [\(c\)](#) demands security to keep the peace;
 - [\(d\)](#) demands security for good behaviour;
 - [\(e\)](#) discharges a person lawfully bound to be of good behaviour;
 - [\(f\)](#) cancels a bond to keep the peace;
 - [\(g\)](#) makes an order for maintenance;
 - [\(h\)](#) makes an order under Section 133 as to a local nuisance;

(i)prohibits, under Section 143, the repetition or continuance of a public nuisance;
(j)makes an order under Part C or Part D of Chapter X;
(k)takes cognizance of an offence under clause (c) of sub-section (1) of Section 190;
(l)tries an offender;
(m)tries an offender summarily;
(n)passes a sentence, under Section 325, on proceedings recorded by another Magistrate;
(o)decides an appeal;
(p)calls, under Section 397, for proceedings; or
(q)revises an order passed under Section 446, his proceedings shall be void.”

27. The irregularities referred to by Mr. Lahiri do not attract any of the provision of Section 461 of the CrPC as it is well settled that, irregularities in the process of issuing summons or warrants under Section 204 do not automatically vitiate the proceedings. Section 460 of the CrPC specifies that certain irregularities do not affect the validity of the proceedings, provided they do not cause a failure of justice.

28. In this regard, I would like to also discuss about the cases referred by the Ld. Counsel appearing on behalf of the petitioner. In my view, the ratio of those cases are not squarely applicable to the case at hand as the factual matrix of those cases were not at all identical with the case presently dealt with. Moreover, in referred cases there is no clear direction for

quashment of the entire proceedings in case of specific irregularities.

29. It is further pertinent to mention here that the non-compliance of the provisions of Section 202, 204(2), 204(4) of the CrPC, in my humble opinion, does not necessarily invalidate the process if it does not cause prejudice to the accused as the accused is already on bail and the contraventions only envisage fine.

30. Let me now discuss about the issue regarding alleged non-compliance of the mandatory provision of the Establishment Rules. The petitioner by highlighting specific provisions of the Establishment Rules has tried to make this Court understand that the initiation of the proceeding against the petitioner is without any basis. In support of this contention, the petitioner has referred to the relevant provisions of the Establishment Rules already mentioned above with regard to the duties of the Inspector. In my opinion all these issues are subject matter of trial after thorough appreciation of the attending circumstances. In addition to that this Court while exercising jurisdiction under Section 482

of the CrPC is not empowered to conduct mini trial as it neither acts as a Court of Revision nor Appeal.

31. Before parting with, the issue regarding the petition of complaint being bereft of basic facts constituting the offence, in my view, is devoid of any merit as a careful perusal of the complaint clearly points out the details of the contravention made by the petitioner/accused and in addition to that accused is admittedly the employer as envisaged in the Act of 1963 and as such he is solely responsible for all the affairs of his own establishment and regard being had to the above there is no requirement for discussion of his specific role in contravention of the Rules.

32. In the light of the aforesaid discussion, the revision applications being no. **CRR 224 of 2023, CRR 225 of 2023, CRR 226 of 2023, CRR 227 of 2023**, stand dismissed. However, liberty is given to the petitioner to mention all these issues before the Trial Court.

33. I would like to make it abundantly clear that Trial Court is to dispose of all these cases strictly on merit by not getting influenced in any manner whatsoever by any observation recorded by this Court hereinabove.

34. With regard to the practice of recording order in the cyclostyle format by some Judicial Officers, I deem it necessary to reiterate again the specific directions provided by the Hon'ble Co-Ordinate Bench of this Court in the case of ***Sharmistha Chowdhury*** (supra) which reads as follows:-

" 35. I have noted with grave concern the practice of recording orders with the assistance of police personnel attached to the General Registrar section or otherwise is not only illegal but affects the independence of judiciary and the constitutional mandate of separation of judiciary from the executive. Rule 183 of Calcutta High Court Criminal (Subordinate Courts) Rules, 1985 lays down the procedure for recording judicial orders which reads as follows:-

" R. 183. Orders requiring the exercise of judicial discretion and the final order shall be recorded by the Magistrate in his own hand or typed by him, others may be recorded under his direction by the Bench Clerk."

36. Accordingly, I deem it necessary to pass the following directions in exercise my powers of superintendence for future guidance of the criminal courts:-

(a) Judges/Magistrates shall record orders strictly in terms of Rule 183 of the Criminal Rules and Orders (Sub-ordinate Court Rules), 1985.

(b) Alternatively, in view of the technological advancement and the availability of personal computers/laptops to the judicial personnel, they may also transcribe their orders on the computers and take a printout thereof and upon affixation of their signature thereto, the said hardcopy shall be treated

as a valid transcription of the order passed by the said court.

(c) Under no circumstances, any judicial officer shall take assistance of any external agency particularly police officers in the matter of recording and/or transcribing orders of the Court.

(d) Any breach of such duty shall invite departmental proceeding so far as the judicial personnel is concerned.”

35. The Ld. Registrar General of this Court is requested to circulate these directions once again to all the Judicial Officers across the Districts for necessary compliance in recording judicial orders in the manner indicated.

36. Interim order, if there be any, stands vacated.

37. Trial Court Records be transmitted back at once.

38. Connected applications, if there be any, stand disposed of accordingly.

39. All parties to this revision application shall act on the server copy of this order downloaded from the official website of this Court.

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

[BIBHAS RANJAN DE, J.]