

01-03-2024  
Subha  
Item no. 41  
Ct no.34

*IN THE HIGH COURT AT CALCUTTA*  
*Criminal Revisional Jurisdiction*

**CRR 725 of 2023**

Sudip Dey  
-versus-  
The State of West Bengal & Anr.

Mr. Souav Chatterjee  
.....for the petitioner.

Petitioner challenges the order dated 17-10-2022 particularly with regard to the application under Section 205 of the Code of Criminal Procedure filed at the instance of the opposite party.

Learned advocate for the petitioner drew the attention of the court to the name of the accused appearing in the cause title as also that at the initial part of the application and submits that the same is different.

Learned advocate for the petitioner also submits that no documents were placed on behalf of the accused in support of her residence at Bangalore. No affidavit was accompanying the said application under Section 205 of the Code of Criminal Procedure and the verification was lacking material particulars.

Having regard to the subject matter which has been challenged and the fact that learned advocate submits that in the written objection the issues were canvassed before the learned Magistrate and the learned Magistrate ignored the same, I direct

that the learned Judicial Magistrate, 2<sup>nd</sup> court, Alipore in AC Case No. 1123 of 2020 would insist upon the accused opposite party to file a fresh application under Section 205 of the Code of Criminal Procedure and give an opportunity to the complainant for contesting the same and thereafter decide the matter in accordance with law.

Needless to state that this court has not gone into the merits of whether Section 205 of the Code of Criminal Procedure is required to be allowed or not. But what has been canvassed is there must be a proper application under Section 205 of the Code of Criminal Procedure, which must adhere to the provisions of law including the settled position of law.

Learned Magistrate would take his independent decision and dispose of the fresh application so filed.

With the above observations, the present revisional application being CRR 725 of 2023 is disposed of.

Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

**[Tirthankar Ghosh, J]**

