

CRR 983 of 2024
Anupam Ghosh
Vs.
Subhas Chandra Mandol

Ms. Sayanti Santra
.... For Petitioner

The order dated 05.01.2024 is passed by the learned Judicial Magistrate, 1st Additional Court, Basirhat, North 24 Parganas. In the ordering portion of the said order in connection with C-50/2015 the learned Magistrate has rejected the application of the complainant for recovery which is basically an application under Section 421 of the Code of Criminal Procedure.

The learned Magistrate has thereafter in the ordering portion recorded that the convict would serve the sentence as directed by the Court and thereafter disposed of the petition by its order dated 05.01.2024.

The said order is palpably illegal in view of the fact that till the accused or the convict is brought before the Court under Section 421 of the Code of Criminal Procedure and he is forced to serve out the sentence or the judgement so passed is implemented the learned Magistrate cannot dispose of the application under Section 421 of the Code of Criminal Procedure.

Accordingly, the order dated 05.01.2024 is set aside to that limited extent.

The learned Magistrate would issue warrant of arrest against the convict to undergo the sentence and also attach his properties for recovery of the amount which has been imposed as fine/compensation. Till the same is concluded, the learned Magistrate as an executing Court in an application under Section 421 of Code of Criminal Procedure would implement the orders passed therein and cannot dispose of.

In terms of the aforesaid direction, CRR 983 of 2024 is disposed of.

Urgent Photostat certified copy of this order, if applied for, be delivered to the learned advocates for the parties, upon compliance of all formalities.

(TIRTHANKAR GHOSH, J.)