

20.11.2024

Sl. No.: 15

Court No.30
BM

CRR 2476 of 2022

Sunil Kumar Das

Vs.

State of West Bengal & Ors.

Mr. Abhijit Singh

... for the Petitioner

Mr. Kaushik Gupta

Ms. Srimoyee Mukherjee

... for the O.P. No. 2 & 3

1. The present revisional application has been preferred praying for setting aside of the order dated 24.06.2022 in connection with M.P Case No.2096 of 2022 under Section 144(2) of the Code of Criminal Procedure passed by the learned Executive Magistrate, 2nd Court at Alipore, South 24 Parganas, where in the court was pleased to drop the proceedings under Section 144(2) of the Code of Criminal Procedure and also reject the application of the petitioner to extend the interim order in connection with M.P. Case No.2096 of 2022.

2. The order under revision is as follows :-

“.....Heard both learned advocates. F.P/RO is filed. A petition under Section 188 IPC and the O.Ps filed a petition challenging the P/R, both are kept in the record. After perusal of C.R along with submitted documents and considering the submission, this court find in reason to enquire the petition under Section 188 IPC and challenged petition by RPS.

Hence both the petitions are rejected.

*It also appears that the **S.P. of the case is over**. Hence, the case is humbly dropped and with a direction to survey park P.S to keep close visit over the situation.....”*

3. Section 144 of the Cr.P.C is reproduced here :-

“Power to issue order in urgent cases of nuisance or apprehended danger:-

(1) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by section 134, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety or a disturbance of the public tranquillity, or a riot, or an affray.

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed ex parte.

(3) An order under this section may be directed to a particular individual, or to persons residing in a particular place or area, or to the public generally when frequenting or visiting a particular place or area.

(4) No order under this section shall remain in force for more than two months from the making thereof:

Provided that, if the State Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing a riot or any affray, it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification.

(5) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section, by himself or any Magistrate subordinate to him or by his predecessor-in-office.

(6) The State Government may, either on its own motion or on the application of any person aggrieved, rescind or alter any order made by it under the proviso to sub-section (4).

(7) Where an application under sub-section (5) or sub-section (6) is received, the Magistrate, or the State Government, as the case may be, shall afford to the applicant an early opportunity of appearing before him or it, either in person or by pleader and showing cause against the order; and if the Magistrate or the State Government, as the case may be, rejects the application wholly or in part, he or it shall record in writing the reasons for so doing.”

4. It is submitted by the learned counsel for the opposite party that one after another applications under Section 144 of the Cr.P.C have been filed by the petitioner, after the proceeding in the present case was dropped.
5. Considering the materials on record and the relevant provision of the Code of Criminal Procedure, this court finds no irregularity in the order of the learned Magistrate, which is in accordance with law.
6. **The present revisional application being CRR 2476 of 2022 is thus dismissed.**
7. All applications connected thereto stand disposed of.
8. Interim order, if any, stands vacated.
9. Let a copy of the order be sent to the learned trial Court for compliance.
10. Urgent Xerox certified copies of this order, if applied for, shall be supplied to the learned counsel for the parties as expeditiously as possible, in compliance of usual formalities.

(Shampa Dutt (Paul), J.)