

22.02.2024

Sl. No.: 17

Court No.30

BM

CRR 2341 of 2019

Gour Halder & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Bibaswan Bhattacharyya

... for the State

The present revisional application of the year 2019 has not been moved till date as against an impugned order dated 29.11.2018 passed by the learned Executive Magistrate at Diamond Harbour, South 24 Parganas, being Ref. Case M.F No.2008 of 2017 under Section 144(2) of the Cr.P.C.

It appears that the present revision has been preferred against an order under Section 144(2) of the Cr.P.C.

On perusal of the said order, it appears that the learned Executive Magistrate had directed the Officer-in-Charge to render Police assistance during construction of a boundary wall by the first party to avoid any untoward situation.

As there is no representation on behalf of the State, Mr. Bibasan Bhattacharyya, learned empanelled Advocate of the State present in court is appointed to represent the State.

Learned Public Prosecutor is requested to regularise his appointment.

Though Section 144(2) provides for a situation of emergency and passing of an ex-parte order without service, this court finds that the learned Executive Magistrate has gone beyond its jurisdiction in passing an order which is vested with the civil court.

The learned Magistrate under the relevant provision can

direct necessary order for maintaining peace and law and order but in the present case, it clearly appears that the order of the Executive Magistrate is beyond his jurisdiction and bad in law and is thus, liable to be set aside.

Accordingly, the order under revision is set aside and the revisional application is accordingly, disposed of.

Let a copy of the order be sent to the learned trial court for compliance and to proceed with the trial expeditiously, if not disposed of, in accordance with law.

Learned counsel for the State to inform the status of this case to the concerned authority.

(Shampa Dutt (Paul), J.)