

16.04.2024
item No.19
Rakib (PA).
ct. no. 34

CRR 3484 of 2022
With
CRAN 1 of 2022

Suvendu Adhikari.
Vs
Kunal Kumar Ghosh.

Mr. Sekhar Kr. Basu, Sr. Adv.
Mr. Sourav Chatterjee,
Mr. Soumya Nag,
Mr. Aditya Tiwari,
Ms. Namrata Chatterjee.
.....for the petitioner.

Mr. Dipanjan Chatterjee,
Mr. Ayan Chakraborty,
Mr. S. Saha,
Mr. A Kundu,
Mr. S. Mahapatra.
.....for the O.P.

Mr. Debasish Roy, Ld. P.P.,
Mr. Arijit Ganguly,
Ms. Sreemoyi Roy,
.....for the State

The present petitioner happens to be an elected member of the West Bengal legislative assembly and the leader of the opposition. The same is admitted position.

I have taken into account the notification issued pursuant to the judgment of the Hon'ble Supreme Court on Ashwini Kumar Upadhyay –Vs. –Union of India & Anr. in Writ Petition (C) No. 699 of 2016 and I am of the view that the present case should have been filed before the learned Magistrate having jurisdiction to decide cases of Member of Parliament and Member of Legislative Assembly.

The learned Public Prosecutor was directed to produce the notification and the learned Registrar (Judicial Service), High

Court, Calcutta was also directed to place the notification so issued.

From notification so produced it reflected that vide Notification No. 670-JL dated 16th November, 2022 the Judicial Magistrate, Bidhanagar, North 24 Parganas has been empowered to deal with the cases relating to the Member of Parliament and Member of Legislative Assembly.

Having regard to the same I am of the view that the acceptance of the complaint by the learned Chief Metropolitan Magistrate, Calcutta is without jurisdiction and it would have been proper for the learned Magistrate to return the complaint when it was filed before the said Court.

Accordingly, cognizance so taken in connection with the complaint case no. CS/22070 of 2022 and subsequent orders are hereby quashed.

Complainant/opposite party would be at liberty to present its case before the learned Judicial Magistrate, Bidhannagar who is empowered to take up the cases of the Member of Legislative and the Member of Parliament. The Learned Metropolitan Magistrate, 19th Court, Calcutta who is presently in siesin of complaint case no. CS/22070 of 2022 is directed to transmit the records to the learned Judicial Magistrate, Bidhannagar who is empowered to adjudicate in respect of all criminal matters relating to Member of Parliament and Member of Legislative Assembly.

With the aforesaid observations CRR 3484 of 2022 is disposed of.

Pending application, if any, is consequently disposed of

The learned Metropolitan Magistrate, 19th Court, Calcutta is directed to transmit all records of case no. CRR 3484 of 2022 within a week from date.

Learned Registrar (Judicial Service), High Court, Calcutta is directed to communicate this order to the learned Chief Metropolitan Magistrate, Calcutta/Metropolitan Magistrate, 19th Court, Calcutta, immediately for necessary action and compliance of the aforesaid order.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)