

03.12.2024
Item no.DL16
Asraf
Court No.30

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

CRR 4360 of 2022

**RINKU SAHA
VS.
THE STATE OF WEST BENGAL & ANR.**

Mr. Pawan Kr. Gupta
Ms. Karabi Roy
Ms. Sofia Nesar
Mr. Santanu Sett

.....for the Petitioner

The present revisional application has been preferred praying for quashing of the order dated 20.07.2022 passed by the learned Additional Sessions Judge, 3rd Fast Track Court, Berhampore, Murshidabad in Cr. Revision case no.34 of 2022 thereby allowing the revisional application and setting aside the order dated 26.11.2021 passed by the learned Sub-Divisional Magistrate (Sadar), Berhampore in case no.6488 of 2021 and directing the officer-in-charge of Chapra PS, Nadia not to give any effect to any order passed by the concerned Magistrate and not to hand over the seized property to any claimant without order of the competent Court.

By the judgment and order dated 20.07.2022 under revision the learned Magistrate held as follows :-

“.....

7. On perusal of the Section 94 of the CrPC it is clear that before exercising the power under Section 94 of the CrPC Magistrate is

required to record a finding that the property in question for which Search Warrant has been prayed for is a stolen property as defined under Section 410 of the IPC, 1860. Without any finding regarding property being a stolen property, Search Warrant cannot be issued by the Magistrate.

8. Such finding as required under Section 94 of the CrPC must be by way of an enquiry.

9. Persual of the LCRs of the impugned order does not reflect that the concerned Magistrate has ever conducted an enquiry for recording a finding regarding the property in question to be a stolen property.

10. The entire exercise by the concerned Magistrate is in violation of section 94 of the CrPC and for that such order cannot be sustained.”

The order set aside by the learned Additional Sessions Judge is as follows:-

“26.11.2021

Petitioner appears through Ld. Advocate.

Submitted petition for recovery of articles U/S-94 Cr.P.C.

Perused the petition and considered.

I.C / O.C, Chapra P.S is directed to recover the articles and keep under Police custody with seizure list.

Next hearing date to 25.02.2022.”

Considering the relevant provision of Section 94 of the Cr.P.C. and the findings of the learned Additional Sessions Judge, this Court finds that the order of the Sessions Judge does not suffer from any illegality and being in accordance with law requires no interference by this Court.

The revisional application, thus, stands dismissed.

There will be no order as to costs.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

Let a copy of this order be sent to the learned Trial Court at once.

[Shampa Dutt (Paul), J.]