27.11.2024
Serial no.DL/16
Asraf
Ct. No. 30

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

CRR 4518 of 2022

RAJIB DEY & ORS.
VS.
THE STATE OF WEST BENGAL

Mr. Saurabh Guha Thakurata
Ms. Nilanjana Sarkar
Mr. Abhratam Sarkar
......for the Petitioners

Mr. Debasish Roy, Ld. Public Prosecutor
Mrs. Amita Gaur
Mr. Sachit Talukdar
.........for the State

Ms. Smita Das De
.........for the Income Tax Authorities

1. The present revisional application has been preferred against an order dated 19.11.2022 passed by the learned Chief Judicial Magistrate, Asansol, Paschim Bardhaman, in connection with Ballavpur O.P. GDE No. 339 of 2022 dated 11.05.2022, Ranigunj PS GDE No.681 of 2022 dated 11.05.2022 and Ranigunj PS GDE No.699 of 2022 dated 12.05.2022 rejecting the application of the petitioners under Section 451 of the Code of Criminal Procedure, 1973.

2. Vide the said order, the learned Magistrate rejected the petitioners' prayer for return of the seized cash by passing a reasoned order. One of the reasons given by the learned Magistrate is that enquiry in the present case was not complete. The Court also took into consideration the enquiry officer's interim report regarding Section 269 of the Income Tax Act.

3. Being aggrieved, the present revisional application has been preferred praying for return of the seized cash.

4. The learned Public Prosecutor is heard State has placed the case diary and a report wherein it appears that Inspector-in-Charge of the Ballavpur Outpost has stated as follows:-

> *"………….In compliance of the aforesaid direction the matter was informed to the Chief Commissioner of Income Tax in Charge of West Bengal through the Commissioner of Police, Paschim Burdwan for necessary action.*
>
> *During enquiry the materials collected submitted before the learned Chief Judicial Magistrate, Paschim Bardhaman, Asansol Court for his legal opinion with regard to the outcome of the enquiry and report in final form but the LD Court fixed for hearing on 10.07.2024 but as the petitioner Rajib Dey was not present during hearing on the date fixed by the LD Court, so LD CJM Paschim Bardhaman Asansol Court further date fixed for hearing on 11.09.2024 but on petitioner Rajib Dey did not appear before LD Court. Hence LD CJM Paschim Bardhaman Asansol Court again* ***date fixed for hearing on 29.11.2024.***

> *I also bring your kind notice that no specific case has been registered at Raniganj PS in this regards.............”*

5. The Income Tax Department is being represented in the present case and has submitted a report, wherein it has been stated:-

> *“......... **6.** That, Income Tax Department is the appropriate authority to determine whether seized cash is explained/accounted or not and take appropriate action under Income Tax Act, 1961. For this purpose, other law enforcement agencies need to share the information regarding the cash seized by them and hand over the same to Income Tax Department if requisition is made under section 132A of Income Tax Act, 1961.........”*

6. Considering the submissions of the learned counsels for all the parties including the State and the Income Tax Department, the matter is remanded to the learned Chief Judicial Magistrate who shall hear the matter **on the date fixed being 29.11.2024** on considering the enquiry report submitted by the enquiry officer and also on hearing the Income Tax Department and the State and shall pass a reasoned order afresh regarding the return of the seized cash, on the basis of the materials collected by the enquiry officer as stated in his report dated 24.11.24 which has already been placed before the learned Chief Judicial Magistrate, Asansol, Paschim Bardhaman.

7. **CRR 4518 of 2022 is disposed of accordingly.**

8. **Parties to act upon on the basis of server copy of this order duly downloaded from the official website of the High Court without insisting upon the certified copy.**

9. All connected applications, if any, stand disposed of.

10. Interim order, if any, stands vacated.

11. Copy of the order be sent to the learned trial court for compliance.

12. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

[Shampa Dutt (Paul), J.]