

14.05.2024

Sl. No.: 33

Court No.30

BM

CRR 4793 of 2022

Sri Suraj Shaw

Vs.

The State of West Bengal.

For the Petitioner : Mr. Debasis Kar.

For the State : Mr. Suman De.

1. Affidavit of service filed be kept with the record.
2. The present revision has been preferred praying for quashing of order dated 23.11.2022 passed by the Special Executive Magistrate, Barrackpore Police Commissionerate, Barrackpore, North 24-Parganas, in Misc. Case No.69/22 SPL.EM.BKPC dated 23.11.2022 arising out of Rahara P.S. GDE No.894 dated 13.11.2022 under Section 110 of the Code of Criminal Procedure, PR No.783/22.
3. It is the case of the petitioner that a proceeding under Section 110 of the Cr.P.C. was drawn up against the petitioner in Misc. Case No.33 of 2019/SPL.EM/BKP.PC dated 01.04.2019 arising out of Khardah Police Station GDE No.2472, 2477 dated 26.03.2019 and the said proceeding is still pending.
4. In the said proceeding the following three cases were referred:-
 - (i) Khardah Police Station Case No.17/19 dated 07.01.19 under Section 20(b)/29 of NDPS Act.

- (ii) Khardah Police Station Case No.720/18 dated 17.09.18 under Sections 341/324/325/427/120B of the Indian Penal Code and 25/27 of Arms Act.
- (iii) Khardah Police Station Case No.1050/18 dated 28.12.18 under Section 3/4 of E.S. Act.

5. It is submitted by the petitioner that the Police authorities have now initiated the present proceeding being No.69 of 2022 under Section 110 of the Cr.P.C. on the basis of the same Police Station cases.
6. It is thus submitted that present proceeding under Section 110 of the Cr.P.C. is not maintainable, considering the fact that a prior case under Section 110 is still pending disposal.
7. Considering the materials on record and on hearing the learned counsel for the petitioner and the State the present revisional application is disposed of with the direction that the learned Executive Magistrate shall first hear the petitioner/accused in the present case being Misc. Case No.69 of 2022 on the point of maintainability and decide the point/issue of maintainability and then proceed in accordance with law, following the guidelines of the Calcutta High Court in CRR 3465 of 2019, ***Rajesh Prasad Tanti vs The State of West Bengal***, dated 01.08.2022.
8. **The revisional application being CRR 4793 of 2022 accordingly disposed of.**
9. All applications connected thereto stand disposed of.
10. Interim order, if any, stands vacated.

- 11.** Let a copy of the order be sent to the learned trial court for compliance.
- 12.** 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.)