

18.12.2024
rc/ct.no.02
Item No.55

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction**

CRR No. 431 of 2024

In the matter of : Biswajyoti Nath

.....Petitioner

Mr. Bhaskar Roy Mahashaya
Mr. Bappa Dutta

... for the Petitioner

Mr. Aditi Sankar Chakraborty
Mr. Ujjwal Luksom

...for the State

The petitioner who is admittedly a public employee seeks quashing of charge sheet no. 109 of 2023 dated February 24, 203 corresponding to Special Case No. 32 of 2021 pending before the learned Additional Sessions Judge, 2nd Court (Special Court under Section 409 of the Indian Penal Code), Jalpaiguri primarily on the ground that sanction under Section 197 of the Code of Civil Procedure was not obtained prior to submission of charge sheet or taking cognizance thereof.

It is not in dispute that the charge sheet was submitted against the petitioner and three others under Section 379/409/411/414/120B of the Indian Penal Code and cognizance of the charge sheet was taken by the learned Additional Sessions Judge, 2nd Court, Jalpaiguri vide an order dated March 01, 2023. In taking cognizance thereof, the learned Additional Sessions Judge did not take into consideration that there was no sanction under Section 197 of the Code of Criminal

Procedure prior to submission of the charge sheet against the petitioner who is a public servant.

In view of the fact that cognizance of the charge sheet could not have been taken by the learned Additional Sessions Judge without the charge sheet having been submitted upon receipt of sanction under Section 197 of the Code of Criminal Procedure, cognizance taken in respect of the petitioner is bad in law and is liable to be quashed.

The revisional application being CRR No. 431 of 2024 is allowed.

The order dated March 01, 2023 by the learned Additional Sessions Judge, 2nd Court (Special Court under Section 409 of the Indian Penal Code), Jalpaiguri in connection with Special Case No. 32 of 2021 in so far as the petitioner is concerned is quashed/set aside.

However, the Investigating Officer is at liberty to submit charge sheet against the petitioner after compliance of Section 197 of the Code of Criminal Procedure.

There shall be, however, no order as to costs.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh,J)