

Item No. 01.05. 2025 42

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Ct 22

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CRR 3953 of 2024

Arijit Biswas
Vs.
The State of West Bengal

Mr. Debabrata Ray,
Mrs. Kakali Ray,
Ms. Sarbani Mukhopadhyay,
Mr. Sourik Mondal. For the petitioner.

Mr. Arijit Ganguly,
Mr. Debjani Sahu. ... for the Sate.

1. Both the learned counsel appearing on behalf of the petitioner as well as State are present.
2. This revisional application has been filed with a prayer for quashing of the proceeding under Section 482 of the Code of Criminal Procedure (528 BNSS) in connection with G.R. Case No. 86 of 2021 corresponding to Chapra Police Station Case No. 317 of 2020 dated 08.09.2020 under Section 188 of the Indian Penal Code read with Sections 2 and 3 of the Epidemic Decease Act, pending before the Court of Learned Judicial Magistrate, 4th Court, Krishnagar, Nadia.
3. The proceeding in connection with revisional application was put into motion by a written complaint submitted by

one Samar kumar Shil, ASI of Police, Chapra, Police Station before the Officer-in-Charge stating inter alia, that all five accused persons including the petitioner were found gossiping at Srinagar More stand at about 18.45 hours without having any face mask.

4. Chapra Police Station Case No. 317 of 2020 dated 08.09.2020 was stated under Section 188 of the Indian Penal Code read with Sections 2 and 3 of the Epidemic Decease Act. Investigation was ended with chargesheet. All the accused persons surrendered before the Court and released on bail. Learned Magistrate took cognizance of the offence on 06.01.2021.
5. Learned counsel on behalf of the petitioner has referred to the provision of Section 188 of the Indian Penal Court and Section 195 of the Code of Criminal Procedure together with the provision of Sections 2 and 3 of the Epidemic Decease Act.
6. By referring to the provision, learned counsel appearing on behalf of the petitioner has tried to make this court understand that the cognizance cannot be taken without receiving complaint from the authorized officer in this behalf.
7. Mr. Debabrata Ray, learned counsel appearing on behalf of the petitioner has further submitted that police officer put the law in motion in this case by filing a complain.
8. Learned counsel appearing on behalf of the State assisted this Court by filing a notification No.

H&FW/118/20 DATED 16th March, 2020.

9. The paragraph 3 of the said notification is required to be reproduced for convenient discussion, which runs as follows:-

“3. ‘Authorized’ persons under this Act are the Director of Health Services, the Director of Medical Education at the State Level, and the District Magistrate, Chief Medical Officer of Health, Sub Divisional Officer and Block Medical Officer of Health in the districts and any other officer who may be authorized by the Department of Health & Family Welfare, Government of West Bengal.”

10. Conjoint reading of paragraph 3 along with Section 195(1), it appears that Court cannot take cognizance of any offence alleged to have been committed in violation of Rules of the notification No. H&FW/118/20 DATED 16th March, 2020 except on a complaint submitted by the authorized person mentioned in the Rule 3 of the aforementioned notification. According to Rule 3 of the notification, it is clear that no court shall take cognizance except on complaint filed either by the Director of Heal Services or by Director of Medical Education or District Migistrate or Chief Medical Officer.
11. Here, in this case, the police officer lodged the complaint, investigation was done and chargesheet was filed.
12. Learned Magistrate, in my humble opinion, did not apply his mind at the time of taking cognizance of the offence which is barred in terms of Rules of the Notification No. H&FW/118/20 DATED 16th March, 2020

together with the provision of Section 195(1) of the Code of Criminal Procedure.

13. In the aforesaid view of the matter, the order of taking cognizance and subsequent proceeding are liable to be quashed.
14. As a sequel the proceeding in connection with G.R. Case No. 86 of 2021 stands quashed.
15. With the aforesaid observation, the revisional application stands disposed of.
16. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.
17. All the parties shall act on the server copy of this order duly downloaded from the official web site of this Court.

(Bibhas Ranjan De, J.)