

06.02.2026
Ct. No. 29
Sl. No.63
skg

CRR - 130 of 2024

**Shambhu Kumar Singh & Ors.
Vs.
The State of West Bengal & Anr.**

Mr. Ayan Basu,
Mr. Prabir Kumar Das,
Mr. Sumit Routh,
Ms. Sayani Das,

.....for the petitioners

Mr. Uday Sankar Chattopadhyay,
Ms. Rajashree Tah,
Ms. Trisha Rakshit,
Ms. Aishwarya Datta,
Ms. Bidisha Chakraborty,
Ms. Sadia Parveen,

...for the opposite parties

1.This is an application wherein the petitioner has prayed for quashing of proceeding being CR-718 of 2019 presently pending before the learned Judicial Magistrate, 3rd Court, Purba Bardhaman. The allegations levelled against the petitioner in the complaint is to the effect that the complainant works as a contractor and used to work to loading and unloading of goods under thikadar at Khana Junction Railway Station. One dumper vehicle was broke down at rail crossing and upon calling by RPF officers the de facto complainant along with the petitioners came to move the vehicle. After completion of work the petitioners allegedly asked for Rs.3500/- illegally as a charge and someone among the labours informed that to RPF officers. It is further alleged that the petitioners out of suspicion tortured the

complainant as the informer of police and threatened him to death.

2. Being aggrieved by the aforesaid proceeding Mr. Basu, learned Counsel appearing for the petitioners submits that the order dated 30th July, 2019 clearly discloses that the concerned Magistrate has not taken cognizance upon any of the offence and had transferred the case to another Magistrate who also without taking cognizance, thereafter examined some of the witnesses under Section 200 Cr.P.C and issued process against the petitioners under Section 204 of the Cr.P.C.

3. Learned Counsel for the petitioners further submits that though the de facto complainant alleged that the petitioners have forced them to put signature on a blank paper but what the petitioners have done with the help of said allegedly singed blank paper has not been disclosed anywhere and as such the offence as alleged under Section 386 I.P.C has not been made out. Furthermore, the ingredients of other alleged offences have not been made out from the allegations levelled in the complaint. He further submits that the petitioners are Government Servants who discharged their duties and whatever act has been done by the petitioners was done while they were in official duty and as such the complainant ought to have taken sanction from the competent authority before initiation of the proceeding.

4. Learned Counsel appearing on behalf of the opposite party though opposed other part of the submissions made on behalf of the petitioners but he also concedes the fact that the order no. 1

dated 30th July, 2019 does not disclose that the concerned Magistrate has taken cognizance upon any of the offences alleged in the written complaint and as such he agreed that it is a fit case where the matter is to be remanded to the court below for hearing the petition of complaint afresh.

5. It is true that what is meant by “taking cognizance” under Section 190(1)(a) of Cr.P.C has not been defined in the code but when the Magistrate on receiving a complaint applies his mind for proceedings under Section 200 to 203 Cr.P.C, he is said to have taken cognizance of an offence within the aforesaid provision. Therefore it is only when the Magistrate applied his mind and is satisfied that the allegations, if proved, would constitute an offence, then he is supposed to decide about initiation of proceeding against the alleged offender and if he decides to initiate proceeding, he is said to have taken cognizance upon the offence. In other words “taking cognizance” means to take judicial notice of an alleged offence with a view to initiate proceeding in respect of such offence, said to have committed by someone. It has been reiterated time and again in judicial precedents that taking cognizance of an offence is not a mere formality. Before taking cognizance Magistrate is to apply his judicial mind to see if on the facts alleged, there is prima facie case to issue process. It is true that at the time of taking cognizance he is not required to pass any reasoned order. But at least there would be a reflection in the order to the effect that he has applied his judicial mind and being satisfied that the

allegations, if proved would constitute an offence, he has taken judicial notice i.e. cognizance upon the alleged offence in order to proceed further.

6. Under such circumstances, the instant application being CRR 130 of 2024 is hereby disposed of directing the concerned Magistrate to consider the complaint of the petitioner afresh as to whether in the background of the facts and circumstances of the case he is supposed to take cognizance of the offence(s) and he will decide such issue preferably within a period of one month from the date of communication of this order.

7. In view of the above order no.1 dated 30th July, 2019 and subsequent orders are hereby set aside.

8. There shall be no order as to costs.

9. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

(Dr. Ajoy Kumar Mukherjee, J.)