

1995 CALLT HC 1 284 . 1995 CALLT 1 284 .

Sukla Mukherjee v. State

Calcutta High Court (Dec 13, 1994)

CASE NO.

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ADVOCATES

Dilip Kumar Sen

C.C.Mukherjee

Ashok Kumar Chakraborty

JUDGES

Mr. Justice Nripendra Kumar Bhattacharyya

Summary

1. 2. By the revisional application the accused petitioner has challenged order dated 30.7.94 passed in G.R. Case No. 1381 of 1993, by the Ld.
2. Sub-section (1) of Section 205 does not limit the application only to a complaint case, it can also be applied even in a case instituted on police report.
3. The impugned order is set aside.

JUDGMENT

1. The Affidavit-of-service filed on behalf of the petitioner be kept with the record. In spite of service none appears for O.P. No. 2.
2. By this revisional application the accused petitioner has challenged order dated 30.7.94 passed in G.R. Case No. 1381 of 1993, by the Ld. Metropolitan Magistrate, 6th court in a case Under Section 120B/498A/420/406 of the I.P.C.
3. Smt. Indrani Mukherjee, O.P. No. 2 herein filed a petition of complaint before the Ld. Metropolitan Magistrate wherein he directed the police to investigate the case in exercise of his power Under Section 156(3) of the Cr.P.C. and upon that complaint the Bowbazar P.S. Case No. 160 dated 13.5.93 Under section 120b, 498a, 420 and 406 was initiated and on the basis of that P.S. Case, G.R. Case No. 1381/93 was started before the Ld. Metropolitan Magistrate, 6th court, Calcutta. In that G.R. Case the present petitioner made an application for personal exemption from appearance Under Section 205 of the Cr.P.C.

The Ld. Magistrate dismissed that application on the ground, inter alia, that Section 205 of the Cr. P.C. is not applicable in a case which is instituted on police report. That is not the interpretation of Section 205. Sub-section (1) of Section 205 does not limit the application only to a complaint case, it can also be applied even in a case instituted on police report. So, the reason that has been given by the Ld. Magistrate for refusing the personal exemption of the petitioner is not at all logical and it is illegal. The impugned order is, accordingly, set aside. The revisional application is allowed. The Ld. Magistrate is directed to dispose of the application of the petitioner dt. 6.6.94 according to law within 3 weeks from the date of communication of this order. Let a copy of this order be sent down to the court below by a special messenger at the cost of the petitioner. Such cost is to be put in uncourse of this week.