

Bishnupada Ghosh.

Bishnupada Ghosh.

SooperKanoon Citation : sooperkanoon.com/920224

Court : Kolkata

Decided On : Jul-04-2011

Judge : Kanchan Chakraborty, J.

Acts : Indian Penal Code (IPC) - Section 420; Code of Criminal Procedure (CPC) - Section 242, 243, 173 (5)

Appeal No. : C.R.R.2025 of 2008.

Appellant : Bishnupada Ghosh

Advocate for Def. : Mr. Souvik Mitter.; Mr. Rajib Basu. Adv

Advocate for Pet/Ap. : Mr. Milan Mukherjee; Mr. Subhasish Dasgupta. Advs

Judgement :

1. The legality, validity and propriety of the order dated 21.5.2008 has been challenged in this revisional application by the petitioner, the accused in Dum Dum Police Station Case No.70 dated 1.3.2005 under Section 420 of the Indian Penal Code (G. R. Case No.576 of 2005) pending in the Court of the learned Judicial Magistrate, 1st Court, Barrackpore, 24-Paraganas, North.

2. The short question which has arisen in this revisional application is whether the original money receipts (two) can be allowed to be admitted into evidence in the midst of a trial.

3. Heard Mr. Mukherjee, learned Counsel appearing for the petitioner and Mr. Rajib Basu, learned Counsel appearing for the opposite party No.2 as well as the Mr. Souvik Mitter, learned Counsel appearing for the opposite party/State.

4. The question is no longer res integra because both the provisions under Section 242 and 243 of the Code of Criminal Procedure are not covered by Section 173 (5) of the Code of Criminal Procedure. For the purpose of proper adjudication of a dispute, a Court can direct any of the parties to cause production of any document as well as adduce evidence. In the instant case, the investigating officer did not seize the original documents but the photo copy of the same. It was a mistake on the part of the investigating officer and for that prosecution should not suffer. The Court is to discharge its duties and to see that justice is done, be it to the prosecutor or accused. When a document is required to be placed before the Court for the purpose of proper adjudication of the case, Court can, in my estimate, direct production of the document and place the document before it.

5. I find no illegality or impropriety in the order under challenge. Accordingly, the revisional application stands dismissed being devoid of merit. However, in case, the learned Trial Court admits the documents in question into evidence, the defence should be given an opportunity to cross examine the witnesses on the same issue elaborately.

6. It appears also that the trial is pending for a quite long period only because of this pending revisional application. The learned Trial Court is directed to take up the matter as early as possible and dispose of the trial at an early date.

7. The revisional application is thus disposed of.

8. The Department is directed to send a copy of this order to the learned Trial Court for information and necessary action immediately.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com