

18.11.2022
Item No.09.
Suman
Ct.42

CRR 4103 of 2022

Sukumar Gorai
Vs.
The State of West Bengal

Mr. Sourav Chatterjee
Mr. Avik Ghatak
Ms. Afreen Begum
...for the petitioner

The petitioner has approached this Court praying for expunging certain remarks made by the learned Additional Sessions Judge, Raghunathpur, Purulia while disposing of an application under Section 439 of the Code of Criminal Procedure filed by the accused praying for bail vide order dated 29th October, 2022.

Having heard the learned advocate for the petitioner and on perusal of the impugned order this Court is of the view that by making certain observation in the impugned order, the learned Additional Sessions Judge practically non-suited the de facto complainant. Prima facie, this Court has every doubt as to whether while dealing with an application for bail a Court can pass such order which will have the effect of nullifying the case instituted on the basis of a written complaint

filed by the de facto complainant in the local police station.

Accordingly, the instant revision is admitted.

It is made clear that the observation questioning applicability of the penal provision of Section 420 of the Indian Penal Code in the impugned order shall not operate as a condition for stoppage of investigation by the Investigating Officer.

The petitioner is directed to serve notice upon the private opposite party through the learned Public Prosecutor, High Court, Calcutta and file affidavit of service within seven days from the date of this order.

Department is directed to intimate the order passed by this Court to the Superintendent of Police, Purulia and the petitioner is directed to submit special messenger cost in the department within three working days from the date of this order.

Liberty to mention.

(Bibek Chaudhuri, J.)