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2022
Ct. No. 5**C.R.R. 4808 of 2022****Reetu Mukherjee**
Vs.
State**Mr. Kamalesh Chandra Saha**
Ms. Payel Mitra**...For the Petitioner****Mr. Swapan Banerjee, Learned P.P. Incharge**
Mr. Suman De
Mr. Pratick Bose**...For the State**

Learned advocate for the petitioner is present. As service could not be caused upon the Public Prosecutor, Mr. Swapan Banerjee, learned P.P. In charge, who is present in Court is requested to appear in this matter. His appearance may be regularised by the concerned authority.

The petitioner in the instant case is aggrieved by issuance of a search warrant by the learned Additional Chief Judicial Magistrate, Barrackpore, in Dum Dum Police Station Case No. 272 of 2022. It is the contention of the petitioner that although certain search and seizure were made by the police authority in course of investigation the learned Magistrate issued search warrant for seizure of articles arbitrarily. Learned advocate further submits that the de facto complainant, respondent No. 2, has made an application for seizure of some of the articles, which were seized by the police authority in course of the investigation. Learned advocate submits that the accused person is already on record and the learned Magistrate issued search warrant without exhausting the procedure of Section 91 of the Code of Criminal Procedure. Records show that the present petitioner earlier instituted a case against the de facto complainant under Section 498A and 406 of the Cr.P.C. and this is subsequent to the case instituted by the petitioner.

Upon hearing the learned advocates and upon considering



the materials placed on record, this Court is of the view that this application should be admitted.

Accordingly, this application stands admitted.

Let service of copy of this application be made upon the respondent No. 2 and affidavit-of-service be filed on the next date of hearing.

Let the matter appear before the appropriate regular Bench two weeks after vacation.

In the meantime, there shall be stay of operation of the order dated 30th November, 2022 passed by the learned Chief Judicial Magistrate, Barrackpore in Dum Dum Police Station Case No. 272 of 2022 corresponding to G.R. Case No. 3016 of 2022 under Section 406/506/120B/34 of the Indian Penal Code for a period of three weeks after vacation.

Learned advocate appearing for the State is requested to produce the case diary of the present case as well as Dum Dum P.S. Case No. 192/2022.

Learned advocate for the petitioner is directed to serve copy of this application upon the learned advocate appearing on behalf of the State in course of the day.

(Biswaroop Chowdhury, J.)