

District North 24 Parganas
In The court of B W M L A / MP
court at Barrackpore

Ref. SPL 233/18

Dr Kunal Sankar
vs

Dr Nirmal Maji

petition no x 14836

dt 3/12/18

Assessment 10/12/18



C-119

5
2018 (01/12/18)

Special 233/18

X
0/5.01
Rtn. 01

The petition dt 17.9.2018 is taken up for order. In the present petition, the petitioner prayed for taking cognizance against the accd persons and to pass necessary order. The complainant stated that he filed the complaint case before the ld A.C.J.M, Bidhannagar on 18.8.2018 and after examination of the complainant on S/A on 18.8.2018 as well as examination of other witnesses, Ld. A.C.J. M, Bidhannagar transmitted the case record to special court for further proceedings to proceed according to law.

Perused the materials on record, order of ld Magistrate, examination of the complainant namely Dr. Kunal Saha and Ratna Ghosh on S/A. After going through the same, it appears that the ld Magistrate after examination without noting cognizance transmitted the case record. Ld. Magistrate in his order dt 20.8.2018 clearly stated that a prima-facie case is forthcoming from the exposition of facts made before him. This finding amounts to take cognizance. Section 200 of Cr.P.C clearly says "A Magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate. ". So, it can be presumed that Ld. Magistrate after taking cognizance examined the complainant and other witnesses on S/A. As the Magistrate did not take any cognizance, so it is merely irregular. So, this court has no bar to take cognizance.

The present complaint case was filed under section 403/406/409/464 of I.P.C. Ld. A.C.J.M after observing the decision of Hon'ble court observed the prior sanction under section 197 of Cr.P.C is not required .

After considering all the pros and cons and as the magistrate found the prima-facie case, So I think that there is no bar to take cognizance against the accd persons.

Let the cognizance be taken against the accd persons under section 403/406/409/464 of I.P.C. Notice be issued against the accd persons.

Complainant is directed to take steps and to file the requisites at once.

Fix 05.01.2019 for appearance.

D/c by me.

Judge Special Court (M.L.A and M.P. cases)

Judge
Special Court
(MPs & MLAs Cases)
Barasat, North 24 Parganas

Judge
Special Court
(MPs & MLAs Cases)
Barasat, North 24 Parganas

Checked by