

Criminal Revision

Present: **The Hon'ble Justice Ashim Kumar Roy**

C.R.R. No. 849 of 2010

Judgment On: 07-04-2010.

Puspendu Biswas
versus
State of West Bengal

POINTS:

SEARCH WARRANT: Issuance of search warrant for recovery of Stridhan articles- Police made prayer for issuance of search warrant- Court below directed the Investigating Officer to take steps in accordance with law whether proper-Code of Criminal Procedure, 1973 S.178(3)

FACTS:

The Investigating Officer of the case made a prayer for issuance of search warrant for recovery of the remaining stridhan articles, when the Learned Magistrate directed him to proceed in accordance with law. The petitioner in this criminal revision challenged the said order.

HELD:

The Court is of the opinion that there is no legal impediment either for Investigating Officer to make a prayer for issuance of search warrant during the course of further investigation and for the Court to allow the same. However in this case although police has made a prayer for issuance of search warrant the learned Court below directed the Investigating Officer to take steps in accordance with law. The Court does not find any justification to interfere with such order. This criminal revision has no merit and accordingly stands dismissed. Paras-3&4

For Petitioner : Mr. Saryati Datta

For State : Mr. Swapan Kumar Mullick

THE COURT:

1. In connection with a case relating to an offence punishable under Sections 498A/406 of the Indian Penal Code in the course of further investigation in terms of an order under Section 173 (8) of the Code of Criminal Procedure, the Investigating Officer of the case made a prayer for issuance of search warrant for recovery of the remaining stridhan articles, when the Learned Magistrate directed him to proceed in accordance with law. The petitioner in this criminal revision challenged the said order.

2. The learned advocate appearing on behalf of the petitioner submitted before this Court that previously the police made a thorough search at his residence as many as on two occasions and on last occasion not having found any articles there issued nil seizure list. According to him, the prayer of the Investigating Officer of the case for issuance of further search warrant is wholly mala fide and aimed to harass and hackle the petitioner unnecessarily.

On the other hand, Mr. Mullick, learned advocate for the State strongly disputed the contention of the learned advocate for the petitioner and according to him, the order impugned does not suffer from any illegality or infirmity and the same deserves no interference.

3. I have given my anxious and thoughtful consideration to the rival submission of the parties. I am of the opinion that there is no legal impediment either for Investigating Officer to make a prayer for issuance of search warrant during the course of further investigation and for the Court to allow the same. However, in this case, although police has made a prayer for issuance of search warrant but the learned Court below is directed the Investigating Officer to take steps in accordance with law.

4. I do not find any justification to interfere with such order. This criminal revision has no merit and accordingly stands dismissed. Interim order, if any, stands vacated.

5. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgment to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)