(1970) 03 CAL CK 0021

Calcutta High Court

Case No: Civil Rule No. 3 of 1970

Jiban Krishna Chatterjee		APPELLANT
	Vs	
Dilip Kumar Chakrabarty		RESPONDENT

Date of Decision: March 18, 1970

Citation: (1971) 2 ILR (Cal) 491

Hon'ble Judges: P.N. Mookerjee, J; Amiya K. Mookerji, J

Bench: Division Bench

Advocate: Amarendra Mohan Mitra, Arunendra Nath Basu and Bijitendra Mohan Mitra, for the Appellant;Aditya Narain Roy and Binode Behari Giri, for the Respondent

Judgement

P.N. Mookerjee and Amiya K. Mookerji, JJ.
This is a limited Rule issued against an order of the learned Subordinate Judge refusing the Petitioner''s application for reconsideration of an ex parte order, passed against him, sanctioning the lodging of complaint for the prosecution of his officer and another by the inventory Commissioner.

2. The reason given by the learned Judge for refusing the Petitioner''s application appears to be that the granting of permission (sanction) by the Court was redundant, as the Commissioner was entitled to lodge the complaint even without such permission.

3. In our view, this is not a proper way of looking at the matter. The Commissioner is an officer of the Court and, for lodging a complaint for* prosecution of somebody in the discharge of his duty as Commissioner, it is necessary that he should take the permission or sanction of the Court concerned. In this view, we are unable to uphold the impugned order of the learned Subordinate Judge rejecting the Petitioner''s present application before him. The application, however, has not been considered by the learned Subordinate Judge on the merits and it is incumbent on him to consider the same on the merits in accordance with law after giving the parties proper opportunities of placing

before him their respective cases on the point.

4. We would, accordingly, make this Rule absolute, set aside the impugned order of the learned Subordinate Judge, as indicated herein before, and send the matter back to him so that the Petitioner''s application for reconsideration of the learned Subordinate Judge''s order, permitting or sanctioning the lodging of complaint by the Commissioner for prosecution of the Petitioner''s officer and another, be considered by him on the merits in accordance with law.

5. There will be no order for costs in this Rule.