

HIGH COURT OF SIKKIM

Record of Proceedings**Crl. Rev. P. No.02 of 2021**

PRATAP PRAMANICK

PETITIONER

VERSUS

STATE OF SIKKIM

RESPONDENT

Date: 04.05.2022

CORAM:

THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

For Petitioner

Mr. Rahul Rathi, Advocate.

For Respondent

Mr. Sudesh Joshi, Public Prosecutor.
Mr. Yadev Sharma, Additional Public
Prosecutor.O R D E R (ORAL)

Mr. Rahul Rathi, Learned Counsel for the Petitioner/Revisionist submits that the Petitioner/Revisionist is in Judicial Custody w.e.f. 20.07.2021. That, on having carefully perused the Judgment of the Learned Chief Judicial Magistrate, East Sikkim at Gangtok, dated 23.12.2019, in G.R. Case No.47 of 2018, and of the Learned Sessions Judge, East Sikkim at Gangtok, dated 30.06.2021, in Criminal Appeal No.03 of 2020, it is evident that the Learned Courts below, have not examined the applicability of Section 360 of the Code of Criminal Procedure, 1973 (Cr.P.C.) or Section 4 of the Probation of Offenders Act, 1958, to the Petitioner/Revisionist. That, this case be remanded back to the Court of the Learned Chief Judicial Magistrate, for the limited purpose of examining these issues. Reliance was placed by Learned Counsel on the decision of this Court in ***Crl. Rev. P. No.03 of 2018 (Sashi Shekhar Thakur vs. State of Sikkim) : SLR (2020) Sikkim 969.***

Learned Public Prosecutor submits that this is a fair submission as the above provisions were never considered by the Learned Courts below.

Having considered the rival submissions of both parties, the matter is being remitted back to the Court of the Learned Chief Judicial Magistrate, East Sikkim at Gangtok, for the limited purpose of deciding whether the provisions of Section 360 of the Cr.P.C., 1973 and Section 4 of the Probation of Offenders Act, 1958 can be extended to the Petitioner/Revisionist.

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Let the Petitioner/Revisionist be produced before the Learned Chief Judicial Magistrate, from Judicial Custody, as per the convenience of the Court but not later than the 20th of May, 2022.

It is made clear herein that the merits of the matter have not been examined by this Court.

Crl. Rev. P. No.02 of 2021 stands disposed of accordingly.

Pending applications, if any, also stand disposed of.

A copy of this Order be transmitted to the Court of the Learned Chief Judicial Magistrate, East Sikkim at Gangtok, forthwith, for information and compliance.

Judge

04.05.2022