

Party Name : BASANTI GOSWAMI @ SUPRIYA Vs THE STATE OF TRIPURA & ORS

THE HONBLE MR. JUSTICE S.TALAPATRA

Heard Mr. A. C. Bhowmik, learned senior counsel assisted by Mr. D. Sarkar, learned counsel appearing for the petitioner.

The petitioner had also approached this Court earlier by filing a petition under Section 482 of the Cr.P.C. being Crl. Petn. No.28 of 2015 as the serious allegation of outraging her modesty made in the complaint being Kakraban P.S. Case No.2015 KKB 054 was incorporated by the police for investigation. This Court by the order dated 22.07.2015 disposed the said criminal petition on observing that the allegation as made by the petitioner be made part of the investigation by the police as the petitioner had disclosed the commission of offence of outraging her modesty. It has been further observed in that order dated 22.07.2015 that: **"However, if the petitioner feels aggrieved after the final police report, she may approach the competent court for the remedy and this dismissal will not be a bar for that purpose."**

Now Mr. Bhowmik, learned senior counsel has submitted that the police filed the charge sheet on 30.06.2015 and that information was not placed before this Court when the order dated 22.07.2015 was passed. The police did not investigate the allegation of outraging the modesty of the petitioner. The charge sheet No.44 of 2015 dated 30.06.2015 has been filed under Sections 498A and 323 of the I.P.C.

By filing this petition under Section 482 of the Cr.P.C. the grievance that the petitioner has advance is that in the first information report lodged by the petitioner she had disclosed the commission of offence punishable under Sections 307 and 354A of the I.P.C. The police had collusively acted and they did not even investigate on those allegations and mechanically filed the charge sheet which has ultimately caused a failure of justice.

Mr. A. Ghosh, learned P.P. appearing for the State has submitted that the charge sheet had already been filed in the competent court and the petitioner ought to have approached that court if she had any grievance.

This Court is not in total agreement of Mr. Ghosh, learned P.P. as in the usual course the complainant would not have received any notice from the court inasmuch as that the accused persons have been charge sheeted under certain other offences. But this Court is of the considered opinion that the grievance that has been agitated by this petition can also be agitated before the Chief Judicial Magistrate or the concerned Magistrate by filing a protest petition even by demanding the further investigation into the matter. In this regard, the law is well settled that whatever the grievance of the complainant be on receipt of the notice or otherwise and such grievance is to be placed before the Chief Judicial Magistrate or the concerned Magistrate who after due evaluation of the grounds raised in the protest petition may, if necessary, direct for further investigation under Section 173(8) of the Cr.P.C.

Having situated thus, the liberty is given to the petitioner to approach the Chief Judicial Magistrate or the concerned Magistrate by filing a protest petition and by laying all her grievances in that petition. Thereafter, the Chief Judicial Magistrate or the concerned Magistrate affording opportunity of hearing to the petitioner shall take the appropriate decision even may direct the police to carry out further investigation in the matter.

With this observation and direction, this petition stands disposed of.

It is needless to say that the petitioner if aggrieved by any order of the Chief Judicial Magistrate or the concerned Magistrate, she will be at liberty to take recourse at law, irrespective of what has been observed in this order.