

16.12.2020
Item no. 55
Ct.42
PG

C.R.R. 1565 of 2020

Mir Wahid Ali
Vs.
State of West Bengal & Ors.

Mr. Ayan Bhattacharya
Mr. Ganesh Manna.....for the petitioner

Mr. Saswata Gopal Mukherjee, Ld. P.P.
Ms. Faria Hossain.....for the State

Mr. Sudipto Moitra, Sr. Adv.
Mr. Bimalendu Das....for the O.P. Nos. 2 to 5

The petitioner is aggrieved by the order dated 03.09.2020 thereby refusing to pass any order on an application under Section 156(3) of the Code of Criminal Procedure for investigation into the allegations made in the said application.

Mr. Moitra, learned advocate for the opposite party nos. 2 to 5 draws the attention of this Court to the various orders passed by the learned Magistrate while dismissing the application under Section 156(3) of the Code of Criminal Procedure and also to the allegations or contentions advanced in the said application.

Mr. Bhattacharya, learned advocate for the petitioner is aggrieved by the order dated 03.09.2020 as the said order was passed in his absence.

I have taken into account independently the allegations made in the application under Section 156(3) of the Code of Criminal Procedure, which was filed at the instance of the petitioner and

after considering the nature of dispute, which has been alleged therein, I am of the opinion that there is no illegality in the order passed by the learned Chief Judicial Magistrate, North 24-Parganas in refusing to entertain the prayer for investigation, as advanced in the said application under Section 156(3) of the Code of Criminal Procedure. As such, no interference is called for so far as refusal of the said prayer and the order passed on 03.09.2020 is concerned.

However, the learned Magistrate should have afforded an opportunity to the complainant to adduce his own evidence at the stage when the prayer for investigation was refused.

Thus, having regard to the present stage of the case, I grant liberty to the petitioner to file a fresh complaint under Section 200 of the Code of Criminal Procedure in accordance with law.

The learned Magistrate will consider the allegations as well as the documents so placed and thereafter decide independently whether process should be issued or not. Needless to state that the learned Magistrate would independently decide the question of issuance of process and should not be influenced by any observation made by this Court while disposing of the present revisional application.

With the said observations, C.R.R. 1565 of 2020 is disposed of.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Tirthankar Ghosh, J.)