

09.09.2021
item No.89
n.b.
ct. no. 34

CRR 2634 of 2016

(via video conference)

**Smt. Sandhya Patra
Vs-
The State of West Bengal & Ors.**

Mr. Ayan Bhattacharya,
Mr. Sherikul Haque,
Mr. Aditya Ratan Tiwary,
Mr. Amitabrata Hait .. for the petitioner.

Mr. Atis Kumar Biswas,
Mr. Sanjib Seth,
Mr. Amit Singh,...for the respondent NO.2 & 3.

Mr. Bidyut Kr. Ray,
Ms. Manisha Sharma For the State.

The revisional application was preferred challenging the order dated 19.6.2017 passed in Criminal Case No.55 of 2017 by the learned Chief Judicial Magistrate, Howrah. Pursuant to the order dated 19.8.2021, Mr. Roy appearing for the State submits a report of the Officer in Charge of Chatterjee Police Station, Howrah. The report which was placed before the learned Magistrate while the application under Section 156(3) of the Code of Criminal Procedure was considered.

In my view that no case for investigation by the police has been made out. As such, there is no illegality in the order so passed by the learned Magistrate in the application under Section 156(3) of the Code of Criminal Procedure. However having regard to the scope and parameters of an application under Section 156(3) of the Code of Criminal Procedure and under section 200 of the code of Criminal Procedure. I am of the view that an opportunity must be

given to the complainant to adduce evidence on her own before the Court of Law to satisfy whether the process should be issued under Section 204 of the Cr.P.C. Accordingly, the application under Section 156(3) of the Code of Criminal Procedure preferred before the learned CJM is converted to one under Section 200 of the Code of Criminal Procedure. Learned court will examine the complainant on the oath and witnesses, if any, in respect of case and thereafter assess whether the provision of Section 202 of the Cr.P.C. is required or not and then proceed to the subsequent stages for taking a final decision as to whether there should be an order under Section 203 of the Cr.P.C. or under Section 204 of the Cr.P.C. Accordingly, the part of the order where the learned Magistrate observed “at best it can be delegated to civil breach of conduct and the same is being rejected” is set aside.

The revisional application being CRR 2634 of 2017 is partly allowed with the aforesaid directions.

Interim order, if any, is hereby vacated.

The petitioner before this court is directed to be present on September 30, 2021 before the learned CJM, Howrah when the learned court would be at liberty to fix the date regarding the manner in which learned court given fit and proper.

All the parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)