

08.09.2021
Sl. No.129
Court No.34
BM

CRR 3921 of 2016

Central Bureau of Investigation
Vs.
Shri Sekhar Biswas & Anr.

Mr. Anirban Mitra ... for the petitioner (CBI)

Mr. Imran Ali
Mr. Avik Ghatak ... for the State

Affidavit of service so filed by the learned advocate for the petitioner be kept with the record.

The formal FIR relating to RC Case No.0102016A0019 (RC 19/16) dated 30.06.2016 reflects that the investigating agency registered the case against the three accused persons and other unknown officer/official of NSICL (the same is available at serial no.7 of the formal FIR).

The order dated 28.07.2016 passed by the learned Sub Judge, CBI, Alipore, South 24 Parganas reflect that the court was perturbed by the registration of FIR against a dead man. By the subsequent order dated 28.03.2016 the court granted liberty to file their FIR. On 21.09.2016 the learned Special Judge was pleased to observe:-

“In view of order no.2 dated 28.07.2016 an order of dismissal, there is no room to pass any order in the present case.”

It is expected that when a Judicial Officer functions there must be an application of mind when orders are passed and the

consequences which may ensue if an investigation is not allowed to proceed at the very inception on technical grounds. The formal FIR reflects that there are other persons except the single dead person. The investigating agency on anvil of considering the background of facts incorporated such name of a dead person in the First Information Report, that was not such an important issue that the court would have dropped the case on such a frivolous grounds.

Having regard to the nature of the order passed by the learned Special Court the same is held not to be legal in the eye of law and as such all the orders passed, being order dated 28.07.2016, 23.08.2016 and 21.09.2016 are hereby set aside. The investigating agency is directed to proceed with the investigation of the case and take to its logical conclusion.

With the aforesaid observations CRR 3921 of 2016 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby made absolute.

All parties are directed to act on the server copy of this order downloaded from the official Website of the Hon'ble High Court at Calcutta.

Urgent xerox certified copy of this order, if applied for, be given to the learned advocates for the parties on the usual undertaking.

(Tirthankar Ghosh, J.)