

23.09.2022

Item No.19
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 77 of 2021

**Dr. Kiriti Mohan Hazra
versus
The State of West Bengal & Ors.**

In Re: An Application under Sections 398/401 read with Section 482 of the Code of Criminal Procedure, 1973.

Mr. Phiroze Edulji,
Ms. Rajnandini Das,
Mr. Sachit Talukdar ... For the Petitioner.

Mr. S. G. Mukherjee, Ld. P.P.,
Md. Anwar Hossain,
Ms. Sreyashee Biswas ... For the State.

Mr. Anirban Dutta,
Mr. Debabrata Das,
Mr. Pradyat Kumar Das ... For the Opposite Party No.2.

Mr. S. S. Roy,
Mr. Dilip Kumar Samanta,
Mr. Debapriya Samanta ... For the Opposite Party No.3.

Both the affidavit-in-opposition filed on behalf of the opposite party no.3 and the affidavit-in-reply filed on behalf of the petitioner be kept on record.

Mr. Edulji, learned advocate appearing for the petitioner has drawn the attention of this Court to a report of Sub-Divisional Land & Land Reforms Officer, Sadar (North) Burdwan addressed to the Additional District Magistrate & District Land & Land Reforms Officer, Burdwan and emphasised on the 2nd page of the said report dated 31.01.2017 so far as the serial numbers a), b), c) and d) are concerned. Learned advocate submits that as there was a specific observation, the petitioner is entitled to advance the

prayer in the application under Section 156(3) of the Code of Criminal Procedure.

Mr. Dutta, learned advocate appearing for the opposite party no.2 submits that the opposite party no.2 has been exonerated from the disciplinary proceedings and the issues were dealt with in a threadbare manner in a departmental proceedings so far as the report is concerned.

Mr. Roy, learned advocate appearing for the opposite party no.3 draws the attention of this Court to the order passed by the learned Civil Judge (Junior Division), 4th Court, Burdwan in Title Suit No. 105 of 1994.

Mr. Edulji, learned advocate for the petitioner submits that the said order was passed in respect of a different property and has got nothing to do with the subject-matter of the property for which allegation has been made in the application under Section 156(3) of the Code of Criminal Procedure and the report of the Sub-Divisional Land & Land Reforms Officer, Sadar (North) Burdwan was the last of the report in the year 2017.

This Court on appreciation of the contentions advanced by the petitioner, the State, the opposite party no.2 and the opposite party no.3 arrives at its finding as follows.

1. So far as the opposite party no.2 is concerned, he is the Block Land and Land Reforms Officer who was discharging his official duties. This Court in ***Dr. Nazrul Islam Vs. Basudeb Banerjee & Ors.*** (CRR No. 625 of 2016) has categorically held that prior to an order being passed under

Section 156(3) of the Code of Criminal Procedure against a public servant in an application under Section 156(3) of the Code of Criminal Procedure sanction is to be obtained from the appropriate authority. The application under Section 156(3) of the Code of Criminal Procedure does not contain such sanction or reflect that any sanction has been obtained. Accordingly, so far as the opposite party no.2 is concerned, the learned Chief Judicial Magistrate, Purba Bardhaman do not have any authority to pass any order of investigation in the application under Section 156(3) of the Code of Criminal Procedure.

2. So far as the opposite party no.3 is concerned, there is a factual discrepancy. The discrepancy relates to the petitioner emphasising on the report dated 31.01.2017 of the Sub-Divisional Land & Land Reforms Officer, Sadar (North) Burdwan who has used the term 'forged' in his report. On the contrary, the opposite party no.3 has relied upon an order dated 22.07.1999 passed by the learned Civil Judge (Junior Division), 4th Court, Burdwan in Title Suit No. 105 of 1994.

Both the order and the report would be considered by the Officer-in-Charge, Bhatar Police Station, district Purba Bardhaman and a report would be submitted as to whether any investigation is required or not, as prayed for, only against the opposite party no.3 herein. Such report should be placed before the learned Chief Judicial Magistrate, Purba Bardhaman by 15.11.2022.

The learned Chief Judicial Magistrate, Purba Bardhaman would thereafter consider the course to be taken after submission of the report. Accordingly, the order dated 19.10.2020 passed by the learned Chief Judicial Magistrate, Purba Bardhaman is set aside.

The learned Chief Judicial Magistrate, Purba Bardhaman is directed to afresh hear out the application under Section 156(3) of the Code of Criminal Procedure on perusal of the fresh report to be submitted by the Officer-in-Charge, Bhatar Police Station, Purba Bardhaman in terms of the direction, as stated above.

With the aforesaid directions, the revisional application being CRR 77 of 2021 is disposed of.

All pending connected applications, if any, are consequently disposed of.

Department is directed to communicate this order to the learned Chief Judicial Magistrate, Purba Bardhaman.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)