

CRR 187 of 2016
(Old CRAN 184 of 2016)

In the matter of:- Sonia Kothari
...petitioner.
-vs-
State of West Bengal & Ors.

Mr. A. Ganguly...for the State.

None appears on behalf of the petitioner.

The present revision has been filed challenging order dated 29th August, 2015 passed by the learned Chief Judicial Magistrate, Howrah rejecting the application of the petitioner under Section 173(8) of the Code of Criminal Procedure for further investigation in connection with Howrah Police Station Case No. 230 of 2014.

The factual matrix of the case is that the petitioner lodged FIR against the opposite parties nos. 2 to 4 and others. Upon completion of investigation, the investigating agency submitted a charge-sheet against the opposite party nos. 2 to 5. The petitioner filed a protest petition on 12.11.2014 before the learned Chief Judicial Magistrate, Howrah praying for further investigation on the ground that some of charge-sheeted witnesses, are interested persons in favour of the accused persons (opposite party nos. 2 to 5). The protest petition was rejected on 29.8.2015. . Being aggrieved by and dissatisfied with the impugned order, the petitioner has preferred the present revisional application.

Mr. Arijit Ganguly, learned advocate appearing for the State submits that status report. Let it be kept with the record.

It appears from the impugned order under challenge that the petitioner filed a protest petition with the contention that three witnesses are interested persons who stand in favour of the accused persons and she sought for further investigation. The learned trial Magistrate holding that at an appropriate stage of trial, the court can take recourse under Section 311 of the Code of Criminal Procedure for examining witnesses named by the complainant in the evidence, rejected her application. It is trite law that the court may invoke Section 311 of the Code of Criminal Procedure at any stage of enquiry, trial in order to summon any person as witness or examine any person in attendance though not summoned as a witness or recall or re-examine witness if it appears his evidence is essential for just decision of the case. Only mere apprehension of the petitioner that the witnesses cited in the charge-sheet would support the accused persons cannot be a ground for further investigation. Accordingly, I do not find any illegality or impropriety with the impugned order.

The status report reveals that after framing of charge, date has been fixed for evidence.

The revisional application is thus, dismissed.

All connected applications stand disposed of.

Interim order, if any, stands vacated.

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

(Bivas Pattanayak, J.)