

21.04. 2022  
item No.22  
n.b.  
ct. no. 34

**CRR 357 of 2017**  
**With**  
**IA No. CRAN 7 of 2022**  
**Pranab Ganguly**  
**Vs.**  
**State of West Bengal & Ors.**

Mr. Probal Mukherjee,  
Mr. Arnab Mukherjee,  
Mr. S. Sarkar,

.. for the Petitioner.

Mr. Saswata Gopal Mukherjee, Ld. P.P.  
Mr. Arijit Ganguly  
Mr. Sanjib Kr. Dan,  
Ms. Sreepana Das

.....for the State

Mr. Rana Mukherjee,  
Mr. Sujata Das

.. for the opposite party No.2 & 3

I find from the report under Section 173 of the Code of Criminal Procedure, that the concerned Investigating Officer expressed his opinion as is reflected from the brief facts appearing in the charge-sheet. I have no issues regarding the police authorities preparing such charge-sheet, but such preparation must be done in each and every case. The other part, which is surprising, is in relation to the opinion of two experts who are unable to agree with each and other. I am of the view that it would not be prudent for the investigating agency to pray for prosecution under Section 182/211/209 of the Indian Penal Code. The preparation of the charge-sheet, prima facie, reflects biasness of the Investigating Officer, as such, without going into the merits of the case, I direct the Deputy Commissioner of Police in charge of Hare Street Police Station would depute an officer of his choice who

would assess the material already available in the Case Diary and submit his report under Section 173 of the Code of Criminal Procedure before the jurisdictional court afresh.

Needless to state that this court has not expressed whether a case has been made out or a case has not been made out. The Investigating Officer newly appointed by the Deputy Commissioner of Police would assess the materials already available in the Case Diary and come to a fresh finding. Such report would be forwarded by the Deputy Commissioner of Police to the Jurisdictional Court after he applies his mind regarding the finding arrived at by the Investigating Officer.

All further orders which have been passed pursuant to the report under Section 173 of the Criminal Procedure Code filed before the Jurisdictional Court is hereby set aside.

The petitioner would be at liberty to express his grievance by invoking appropriate provisions of law after the report is submitted by the Investigating Officer under Section 173 of the Code of Criminal Procedure.

With the aforesaid observations, CRR 357 of 2017 is partly allowed.

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

Interim order, if any, is hereby vacated.

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

**( Tirthankar Ghosh, J.)**