

Court No.
33
Item 34
Ali
16.08.2022

CRR 269 of 2014

Smt. Sampa Ghosh
-Vs-
The State of West Bengal & Ors.

In re: An application under Section 401 read with Section 397
and 482 of the Code of Criminal Procedure, 1973.

Mr. Sandeep Chakraborty
.....for the State

The present revisional application has been filed by the petitioner challenging impugned order No. 5 dated 16.09.2013 passed by learned Additional District & Sessions Judge 2nd Court at Barrackpore, North 24-Parganas in connection with Sessions Case No. 305 of 2013 (corresponding to G.R. No. 5543 of 2012).

The factual matrix of the case is that the petitioner being the defacto complainant filed an application before the trial court i.e. Additional District & Sessions Judge, 2nd Court at Barrackpore, North 24-Parganas for further investigation by CID, West Bengal or Superintendent of Police, North-24 Parganas on the ground of illegality in conducting of investigation. The trial court rejected such application of the petitioner on the ground of it being a transferee and trial court which is not competent for passing order for further investigation.

Mr. Sandeep Chakraborty, learned advocate appears on behalf of the State.

Learned Registrar (Judicial Service), High Court Calcutta has forwarded a report submitted by Additional

District & Sessions Judge, 2nd Court, Barrackpore, 24-Parganas (North). Let it be kept with the record.

Being aggrieved by and dissatisfied with the impugned order the petitioner has preferred the present revisional application.

In order to have precise discussion on the issue, it will be profitable to refer Section 173 sub-clause 8 of the Code of Criminal Procedure which is reproduced herein below:

(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation the officer-in-charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2).

The trial court has held that being transferee and trial court, it is not competent to order for further investigation. On bare reading of Section 173 sub-Clause 8 of the Code it clearly indicates that the Magistrate can order for further investigation. Accordingly, the aforesaid finding of the trial court cannot be interfered with.

Further more the reports submitted by learned trial court reveals that the Sessions Case being No. 305 of 2013 has

been finally disposed of and the sole accused Gour Hari Das has been acquitted.

In the aforesaid backdrop, the present revisional application stands 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.)