

31.01.2022
S/L No.3
KS

(Via Video Conference)
C.R.R. 810 of 2010

Sri Siddeshwar Naskar
-Vs.-
The State of West Bengal & Ors.

Mr. Binoy Kumar Panda
Mr. Pravas Bhattacharya
.....For the State

The record is placed before me alongwith a report forwarded by the Learned Registrar (Judicial Service) regarding status of N.G.R. Case No.721 of 2005 which was pending before Learned Judicial Magistrate, Baruipur. It appears from the report dated 27.01.2022 that the said N.G.R. case has been disposed of on 27.06.2011 on contest and subsequent Criminal Appeal bearing No.72 of 2012 arising therefrom was also disposed of by Learned Additional District Judge, Baruipur on 12.07.2016. Let the report be taken on record.

None appears for the petitioner and the opposite party nos.2 to 4.

Mr. Binoy Kumar Panda and Mr. Pravas Bhattacharya, learned advocates appear for the opposite party/State.

Since this revisional application is pending from 17.03.2010 it is taken up for consideration on merit. The petitioner had lodged G.D.E No.835 of 2004 dated 11.12.2004 before Sonarpur Police Station, South 24

Parganas against Mohan Ray and Saiba Rani Ray to the effect that Mohan Ray and Saiba Ray assaulted Sarbani Naskar, the wife of the petitioner. N.G.R. Case No.721 of 2005 arose out of the complaint made in the G.D.E and the case was transferred to Learned Judicial Magistrate at Baruipur.

The petitioner being aggrieved and dissatisfied with the order dated 05.12.2009 passed by Learned Judicial Magistrate, Baruipur in N.G.R. Case No.721 of 2005 under Section 323 of the Indian Penal Code, preferred this revisional application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973, praying for setting aside of the order dated 05.12.2009, whereby the prayer of the de facto complainant/petitioner under Section 311 of the Criminal Procedure Code praying for examination of some witnesses and production of document was rejected.

Perused the impugned order dated 05.12.2019 passed by Learned Judicial Magistrate, Baruipur, 1st Court in N.G.R. Case No.721 of 2005 and considered the contentions raised by the petitioner/de facto complainant in his application for revision.

Heard learned advocate for the State.

It is submitted that there is no merit in the application for revision and the State had examined 4 (four) of the 5 (five) cited witnesses in the case and the application under Section 311 of the Criminal Procedure Code was made after examination of the accused persons under Section 313 of the Criminal Procedure Code.

Having considered the impugned order and the submission made by learned advocate for the State, I find that at the time of hearing of the application under Section 311 of the Code of Criminal Procedure, the de facto complainant did not comply with the provisions under Section 301(2) of the Code of Criminal Procedure and his prayer for instructing learned Assistant Public Prosecutor to seek for further evidence was not made in accordance with law. It is also gathered that the petitioner sought for examining witnesses whose names did not figure in the prosecution report. Therefore, I do not find any illegality, impropriety or irregularity in the impugned order passed by Learned Judicial Magistrate.

Accordingly, there is no merit in the criminal revisional application (C.R.R. 810 of 2010) and the same is dismissed on its merit.

Let a copy of this order be sent to Learned Judicial Magistrate, 1st Court, Baruipur for information and necessary action.

(Ananda Kumar Mukherjee, J.)