

09.02.2022
Sl. No. 9
Court No.35
BM

CRR 1384 of 2011

Smt. Dipti Kar
Vs.
The State Of West Bengal

(Via Video Conference)

Mr. Binay Kumar Panda
Mr. Provas Bhattacharyya ... for the State

The matter is fixed up today as listed motion. On call none appears for the petitioner. Mr. Binay Kumar Panda, learned advocate appears for the State along with Mr. Provas Bhattacharyya. The appointment of Mr. Binay Kumar Panda and Mr. Bhattacharyya may be regularised by the concerned authority.

On a perusal of the record, it appears that the petitioner has filed this application under Section 482 of the Code of Criminal Procedure praying for quashing of the final report dated 30.11.2010 in respect of Khardah Police Station FRT No.562 of 2010 arising out of Khardah Police Station Case No.94 of 2005 dated 22.2.2005 under Sections 461/379 of the Indian Penal Code, corresponding to GR Case No.1838 of 2005 pending before the court of learned Additional Chief Judicial Magistrate, Barrackpore, 24-Parganas(North).

On a perusal of the record, it is gathered from the report that FIR was lodged by the petitioner alleging offence under Section 461 and 379 of the Indian Penal Code against the FIR named accused

persons. After holding investigation Police submitted "Final Report" on 30.11.2010 which is five years after lodging of the complaint.

No interim order has been passed staying further proceeding of the case. Direction was given to the petitioner to file supplementary affidavit along with copy of the order passed by the learned Magistrate. It appears from copy of order annexed to the supplementary affidavit that on 14.03.2011, on the date of submission of the final report before the court, the learned Magistrate directed issuance of notice to the defacto complainant for his opinion and fixed 20.07.2011 for SR.

The petitioner has not filed any copy of order dated 20.07.2011 to indicate if any objection was raised by the petitioner before the jurisdictional court. There is nothing to show if the petitioner had challenged the FRT before the learned Magistrate under Section 173(8). A Magistrate is vested with jurisdiction to direct further investigation in respect an offence after report under sub Section 2 of Section 173 of Cr. P.C has been forwarded to the Magistrate. Unless such opportunity is exhausted by the petitioner before the Magistrate, filing of application under Section 482 of the Code of Criminal Procedure before this Court is of no avail.

The Criminal revision is accordingly dismissed for default.

Let a copy of this order be sent to the court of learned Additional Chief Judicial Magistrate, Barrackpore for information.

(Ananda Kumar Mukherjee, J.)