

Court No. 33
Item 3
Ali
19.07.2022

CRR 1208 of 2013

**Nemai Biswas
versus
The State of West Bengal**

In Re.:- An application under Section 482 of the Code of Criminal Procedure.

Ms. Sreyashee Biswas

.....for the State

None appears on behalf of the petitioner.

This revisional application has been filed by the petitioner under Section 482 of the Code of Criminal Procedure challenging order dated 12.03.2013 passed by learned Additional Chief Judicial Magistrate, Bidhannagar 24-Parganas (North) in connection with East Bidhannagar Police Station Case No. 139 dated 14.08.2000 (corresponding to G.R. No. 2762 of 2000) under Sections 454/380 of the Indian Penal Code.

The factual matrix of the case is that on 09.04.2001 police conducted a raid in the house of the petitioner in connection with East Bidhannagar Police Station case no. 25(3) of 2001 under section 399/402 of the Indian Penal Code and seized some gold ornaments. The petitioner failed to produce any receipts. It was the case of the prosecution that the seized gold ornaments were stolen property kept in the possession of the petitioner which were subject-matter in East Bidhannagar Police Station Case No. 139 dated 14.08.2000 and one other case. The petitioner faced trial for prosecution under Section 4(1) of the Bengal Criminal Law (Industrial Area) Amendment

Act, 1942 being N.G.R. Case No 919 of 2001. On conclusion of trial the petitioner was found not guilty and was acquitted from the case under Section 255(1) of the Criminal Procedure Code. While disposing of the aforesaid case the learned trial Court observed that the subject '*alamat*' be dealt with the result of the proceeding of East Bidhannagar Police Station Case No. 139 dated 14.08.2000 under Sections 454/380 of the Indian Penal Code.

On 18.12.2012 the petitioner filed an application before the learned trial court for return of the seized gold ornaments. The aforesaid application was rejected by the learned trial Court. Challenging the said order the petitioner moved the Hon'ble Court in revision being CRR No. 93 of 2013 dated 14.02.2013 and following order was passed:-

"Consequently order dated 18th December, 2012 is set aside. On production of the records on 4th March, 2013, the court of Additional Chief Judicial Magistrate, Bidhannagar, 24-Parganas shall decide the application of the petitioner on the same date or within one week thereafter."

Pursuant thereto the application of the petitioner for return of the seized gold ornaments dated 18.12.2012 was taken up for hearing by the learned trial Court on 12.03.2013 and upon perusal of the materials on record the said application was rejected on the ground that in terms of judgment in N.G.R. No. 919/01 the subject '*alamat*' was to be dealt with the result of proceeding of East Bidhannagar Police Station Case No. 139 dated 14.08.2022 which proceeding is still pending for disposal.

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

Ms. Sreyashee Biswas, learned Advocate appearing on behalf of the State files status report. Let it be kept with the record. She submits that on completion of investigation the case has ended in filing of final report which has been accepted by the Court on 16.11.2013 resulting in disposal of the case.

It appears from the copy of judgment passed in N.G.R. No. 919/01 under Section 4(1) of the Bengal Criminal Law (Industrial Area) Amendment Act, 1942, annexed to the revisional application, that the petitioner was acquitted from the charge. However, the learned trial Court while disposing the said case observed that the subject '*alamat*' is to be dealt with the result of proceeding of East Bidhannagar Police Station Case No. 139 dated 14.08.2000 under Sections 454/380 of the Indian Penal Code. The application of the petitioner for return of the seized gold ornaments was rejected on the score of pendency of the aforesaid proceeding.

The status report of Inspector-in-charge, Bidhannagar East Police station dated 29.06.2022 shows that the investigation of the case has ended in filing of final report vide Bidhannagar East PS F.R.T. No. 56 of 2001 dated 01.09.2001 and the final report has been accepted by the learned Additional Chief Judicial Magistrate, Bidhannagar, 24-Parganas(North) on 16.11.2013.

In the aforesaid backdrop, the petitioner is granted liberty to

file separate/fresh application before learned Additional Chief Judicial Magistrate, Bidhannagar, 24-Parganas (North) for return of the seized '*alamat*' which shall be dealt with separately by the said Court taking into consideration all the material particulars placed before it and dispose of such application in accordance with law.

With the aforesaid observations, the present revisional application is disposed of.

All connected applications also 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.)