

05-04-2022
Subha
Item no.63
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 1812 of 2018

In the matter of : **Anil Soni**

.....petitioner.

In Re : An application under Section 401 read with Section 482 of the Code of Criminal Procedure.

Mr. Sanjoy Banerjee
Mr. Joydeep Bhattacharjee

....for the petitioner.

Mr. Madhusudan Sur, Id. APP,
Mr. Dipankar Paramanick

.....for the State.

Affidavit of service so filed be kept with the record.

Mr. Sanjay Banerjee, learned advocate appearing on behalf of the petitioner submits that because of incorrect legal advice, learned advocate did not press the revisional application under Section 156(3) of the Code of Criminal Procedure.

Mr. Banerjee, learned advocate appearing on behalf of the petitioner submits that the investigation of the case has been done in a perfunctory manner and if the trial is allowed to progress on the basis of such materials, which have been collected by the Investigating Agency, the purpose for which the investigation has been done would not be successful.

Mr. Sur, learned Additional Public Prosecutor appearing on

behalf of the State submits that there are substantial materials which have been collected by the Investigating Agency and the Investigating Agency are in a position to prove the case beyond reasonable doubt.

I have considered the submissions of the rival parties and is of the opinion that as the application under Section 173(8) of the Code of Criminal Procedure was initially not pressed before the learned Metropolitan Magistrate, 8th court, Calcutta, a liberty should be granted to the de facto complainant to prefer a protest petition elaborating his submissions regarding further investigation.

In case, the learned Magistrate finds that there are materials which were not collected by the Investigating Agency, more particularly as contended that there has been forgery and some of the vital witnesses have not been examined, the learned Magistrate would consider the same in the perspective of the materials already collected by the Investigating Agency.

Needless to state that the learned Magistrate would independently dispose of the application under Section 173(8) of the Code of Criminal Procedure on merits. If such an application is filed within a fortnight from date before the jurisdictional court, the learned court would dispose of the same in accordance with law within a period of 45 days after hearing the necessary parties.

With the aforesaid observations, the present revisional application being CRR 1812 of 2018 is disposed of.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

Interim order, if any, is hereby vacated.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]