

D/L 34
March 3,
2022
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C.R.R. No.1732 of 2019
With
CRAN 1 of 2019 (Old CRAN 2729 of 2019)
(Via Video Conference)

In Re: An application under Section 482 of the Code of Criminal
Procedure, 1973;

Subhash Ghosh alias Subash Ghosh
Versus
The State of West Bengal

Mr. Sumanta Chakraborty.
...for the petitioner.

Mr. Saswata Gopal Mukherjee, Ld. P.P.,
Mr. Arijit Ganguly,
Mr. Sanjib Kumar Dan.
...for the State.

In Re: CRAN 1 of 2019 (Old CRAN 2729 of 2019)

Arijit Ganguly, learned advocate, appears on behalf of the
State.

Having regard to the reasons so assigned in the
application under Section 5 of the Limitation Act, I am of the
opinion that the same is just and sufficient cause for not preferring
the application within schedule period. Accordingly, the delay of
150 days in filing the instant revisional application is hereby
condoned.

Thus, the application being CRAN 1 of 2019 (Old CRAN
2729 of 2019) is allowed.

In Re: CRR 1732 of 2019

The revisional application is considered on merits.

The subject matter relates to challenge in respect of the order dated 14.11.2018 which reflects that an application under Section 173(8) of the Code of Criminal Procedure was preferred at the instance of the petitioner who happens to be the father of the deceased. The learned Magistrate rejected the application under Section 173(8) of the Code of Criminal Procedure and accepted the closure report submitted by the Investigating Officer. The opinion of the Investigating Officer was "FRMF".

Mr. Chakraborty, learned advocate appearing for the petitioner submits that the petitioner preferred an application for supply of the documents which were relied upon by the prosecution/investigating agency to arrive at its conclusion prior to the same being considered by the learned Magistrate. However, the same was not supplied and the hearing had to be conducted under peculiar circumstances.

In view of the observations of the Hon'ble Supreme Court in **Jakia Nasim Ahesan & Anr. Vs. State of Gujarat & Ors.** reported in **(2011) 12 SCC 302: (2012) 1 SCC (Cri) 559 : 2011 SCC Online SC 1244**, I am of the opinion that the learned Magistrate would direct the Investigating Agency to supply all the documents from the inception of the investigation which were collected by the Investigating Agency including the statements of the witnesses which they had relied upon and thereafter fix a date for hearing of the application under Section 173(8) of the Code of

Criminal Procedure which was earlier filed on 31.10.2018.

The order of the learned Magistrate rejecting the prayer under Section 173(8) of the Code of Criminal Procedure by its order dated 14.11.2018 is hereby set aside.

The learned Magistrate after supply of the aforesaid documents/statements would afford opportunity for conducting the hearing at the instance of the defacto complainant as stated above.

Thus, CRR 1732 of 2019 is allowed.

Pending application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)