

CRR 2834 of 2019

In the matter of : Saraswati Das

.....Petitioner

Mr. Dipanjan Chatterjee

Ms. Puja Kar

...for the petitioner

Mr. P.K. Dutta, Ld. APP

Mr. Santanu Deb Roy

Md. Kutubddin

...for the State

Being aggrieved and dissatisfied with the order dated 4.9.2019 passed by the learned Judicial Magistrate, 3rd Court, Paschim Medinipur, by which learned court concerned allowed adjournment petition filed by the petitioner/complainant with cost of Rs. 2000/- but at the same time contrary to this order closed evidence of PWs and fixed next date for examination of the accused under Section 313 of the Code of Criminal Procedure in connection with GR case no. 1002 of 2013 under Section 147/148/149/447/323 of the Indian Penal Code.

Learned advocate for the petitioner submits that the order is self-contradictory and does not carry any sense, if it is taken as a whole. In the present warrant trial by Magistrate the complainant adduced evidence of three witnesses before charge and after framing of charge, PW1 has been examined and 4.9.2019, was fixed for cross examination of Pw-2 after charge. The complainant on that day prayed for an adjournment and learned trial court allowed complainant's prayer for adjournment with cost of Rs. 2000/- but surprisingly after allowing complainant's adjournment petition, learned trial court further pleased to order that evidence of complainant is closed and next date was fixed for examination

of the accused under Section 313 of the Code of Criminal Procedure.

Learned advocate for the State submits that this is palpably a contradictory order might have passed due to inadvertence, because once the Magistrate was convinced to allow complainant's prayer for adjournment with cost of Rs. 2000/-, the question of closure of complainant's evidence does not arise and the court cannot fix the next date for examination of the accused under Section 313 of the Code of Criminal Procedure without concluding the evidence intended to be adduced on behalf of the complainant.

Having considered the facts and circumstances of the case and that there is inherent mistake apparent on the face of the order, wherein order written in the "filing up blanks" format the impugned order dated 4.9.2019 passed in CR case no. 1002 of 2013 is hereby set aside only to the extent of Magistrate's observation relating to closure of evidence of the complainant. The petitioner is directed to deposit adjournment cost of Rs.2000/- as awarded by the Magistrate within a period of one month before the trial court and on being deposit, the learned trial court will complete the evidence intended to be adduced on behalf of complainant within a period of three months thereafter and will conclude the entire proceeding preferably within a period of three months, thereafter.

Accordingly, CRR 2834 of 2019 is disposed of.

Appointment of learned advocate for the State may be regularized by the legal remembrancer.

Urgent photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Ajoy Kumar Mukherjee, J.)