

D/L 58
February
15, 2022
Bpg.

C.R.R. No.2762 of 2017
(Via Video Conference)

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

Abhijit Dey
Versus
The State of West Bengal & Anr.

Mr. Sekhar Kumar Basu,
Mr. Kushal Kumar Mukherjee.
...for the petitioner.

Mr. Md. Anwar Hossain,
Ms. Benajir Hasna.
...for the State.

The grievance of the petitioner who happens to be the complainant/informant and at whose instance Bidhannagar North Police Station Case No.194 of 2016 dated 9.9.2016 was registered for investigation is aggrieved by the naraji petition being rejected by the learned ACJM, Bidhannagar on 12th May, 2017.

Mr. Basu, learned senior advocate appearing for the petitioner submits that prior to the naraji petition was heard out, the petitioner ought to have received the documents collected by the Investigating Agency and relied upon them for arriving at their conclusion in respect of the prayer for discharging the accused persons.

Mr. Hossain, learned advocate appearing for the State has submitted a report which reflects that in spite of efforts the residence or the address so provided in respect of the opposite party

no.2 is found under lock and key.

Let the report be kept with the record.

Be that as it may, in view of the prayer advanced by the petitioner, I direct the learned ACJM, Bidhannagar to take necessary steps for supply of the copies relating to the materials collected by the Investigating Agency in course of investigation of Bidhannagar North Police Station Case No.194 of 2016 dated 9.9.2016. After such documents are supplied, the learned Magistrate would grant an opportunity to prefer a fresh application under Section 173(8) of the Code of Criminal Procedure to the petitioner, fix a date for hearing of the petitioner as well as the State and thereafter pass an order which he would think fit and proper in accordance with law.

In view of the observations made above, the order dated 12.5.2017 so far as it relates to the observations made by the learned ACJM, Bidhannagar that the prayer of the de facto complainant merits no consideration and is rejected as also discharging the accused persons, is hereby set aside. Needless to state that this Court has not applied its mind to the merits of the contentions but restricted itself to the technical and procedural parts as it has been primarily agitated as the documents/materials on which the Investigating Agency arrived at its findings were not handed over to the complainant, thus no effective hearing could be performed before the learned Magistrate on the naraji petition so filed.

Accordingly, CRR 2762 of 2017 is partly allowed.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

Learned ACJM, Bidhannagar is directed that within 30 days from the date of communication of this order, arrangements must be made for supply of the copies to the petitioner. Learned Magistrate thereafter will give another 15 days' time to prefer an application under Section 173(8) of the Code of Criminal Procedure and within a month thereafter the hearing should conclude.

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

(Tirthankar Ghosh, J.)