

CRR 2967 of 2019

In the matter of : Abdul Wahab Laskar @ Abdul Ohab Laskar  
.....Petitioner

Mr. Pawan Kr. Gupta  
Mr. Santanu Sett  
Ms. Sofia Nesar                      ...for the Petitioner

Mr. S.G.Mukherjee, Ld. PP  
Mr. Arijit Ganguly  
Ms. Debjani Sahu                      ...for the State

Being aggrieved and dissatisfied with the charge-sheet filed in connection with Usthi Police Station Charge Sheet no. 473 of 2018 dated 27.12.2018 under Sections 341/323/325/354/34 of the Indian Penal Code, 1860 arising out of Usthi Police Station case no. 443 of 2018 and the impugned order dated 2<sup>nd</sup> August, 2019 passed by the learned Judicial Magistrate, 1<sup>st</sup> Court, Diamond Harbour in G.R. Case no. 3100 of 2018, petitioner has preferred present revisional application.

The grievance of the petitioner is that after completion of investigation, the petitioner was neither informed by the Investigating Officer about the submission of charge-sheet nor the learned Magistrate informed the defacto-complainant about the same after taking cognizance in the matter concerned and as such the petitioner submitted an application under Section 173(8) of the Code of Criminal Procedure, 1973 for further investigation.

The main allegation is that the Investigating Authority should have collected all the documents during investigation and they

should have charge-sheeted the accused persons with appropriate grievous sections.

It is further alleged by the petitioner that the Investigating Authority has not conducted the investigation in a fair manner which is reflected from the fact that no attempt has been made to recover and the seized commodities, pertaining to the I.C.D.S. school which was stolen by the accused persons. The investigation was done in a casual manner, at the behest of accused person nos. 2 to 6 and they have not added appropriate sections in the charge-sheet. The petitioner accordingly have also prayed for setting aside the impugned order dated 2<sup>nd</sup> August, 2018 passed by the learned Judicial Magistrate, 1<sup>st</sup> Court, Diamond Harbour in G.R. Case no. 3100 of 2018.

After going through the impugned order, it appears that learned trial court was of the view that the charge-sheet has already been submitted under Sections 341/323/325/354/34 of the Indian Penal Code, 1860 and cognizance of the offence has already been taken on 31<sup>st</sup> January, 2019 and the learned trial court also correctly relied upon Section 216 of the Code of Criminal Procedure that the charge can be altered or modified at any time on the basis of materials collected or available during the trial. Accordingly, the learned trial court passed the impugned order rejecting the petitioner's prayer for setting aside the impugned order dated 2<sup>nd</sup> August, 2019.

I find nothing to interfere with the order passed by the learned trial Judge in the impugned order. However, the learned trial Judge is directed if the charge has not been framed in the

meantime, he will consider all the materials that are available before the court, at the time of framing the charge.

CRR 2967 of 2019 is accordingly disposed of.

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

**(Ajoy Kumar Mukherjee, J.)**