

**CRR 2991 of 2019**

**In the matter of : Srimonto Mondal...petitioner**

Mr. Amitava Ghosh  
Mr. Madan Mohan Roy  
Ms. Nabanita Chatterjee ...for the petitioner

Mr. Arindam Jana  
Mr. Bikram Banerjee  
Mr. Anka Nandi  
Mr. Sutirtha Nayek ...for the O.P. no. 3

Mr. Sudip Ghosh  
Md. Kutubddin ...for the State

Being aggrieved and dissatisfied with the impugned order dated 5.4.2019 passed by the learned Additional District judge, Bishnupur in G.R case no. 118 of 2013 corresponding to Jaipur police station case no. 26 of 2013 under section 420/406/120B of the Indian Penal Code, the present revisional application under Section 482 read with Section 401 of the Code of Criminal Procedure has been preferred. By the impugned order, learned court below was pleased to accept FRT no. 107 dated 30.12.2018 and was further pleased to drop the proceeding. The allegation levelled by the petitioner is that sometimes in the year 2000 he bought a LPT truck bearing registration no. WB 67 2553 with the financial assistance from a finance company and he appointed one Alok Saha being the opposite party no. 2 herein as driver who was using said vehicle for public service on hire. On 5.1.2008 the said opposite party no. 2 took away the said truck from the house of the complainant/petitioner herein

without the consent of the complainant and did not return the same. Subsequently the accused persons being opposite party no. 2 and 3 hatched up a criminal conspiracy against the petitioner by changing the registration number of the said truck from WB 62 2553 to WB 57A 1623 and also changed the ownership of the truck in the name of opposite party no. 3 and plying the said truck at Panagarh within the District of Burdwan.

Long after the said incident which allegedly took place on 5.1.2008 the petitioner herein as complainant lodged a complaint under Section 156(3) of the Code of Criminal Procedure before the court on 2.12.2011. Subsequently, as ordered by Magistrate, said complaint was registered as Jaipur police Station case no. 26 dated 15.3.2013 under Section 420/406/120B of the Indian Penal Code.

After investigation police submitted final report in the form of FRT for the first time on 27.7.2014. The defacto complainant/petitioner herein filed protest petition against the said FRT and on the basis of said protest petition the magistrate ordered for further investigation on 3.9.2014. Thereafter on completion of further investigation, again final report in the form of FRT was filed on 17.3.2016. Being dissatisfied with the said FRT submitted by police after completion further investigation, the present petitioner again filed protest petition and the case was once again directed for further investigation by the order of the Magistrate dated 23.11.2016. The further investigation for the third time had also been ended in FRT on 25.11.2017. Being aggrieved by that FRT submitted by the investigating agency,

the defacto complainant again filed protest petition and prayed for further investigation and as per order of the learned Magistrate on 13.8.2018, the investigating officer was once again asked for further investigation and after making further investigation for the 4<sup>th</sup> time, again final report submitted by investigating officer in the form of FRT being no. 107 dated 30.12.2018. Being dissatisfied again the petitioner filed protest petition against FRT but this time by passing the impugned order dated 5.4.2019, learned Additional Chief Judicial Magistrate, Bishnupur was pleased to accept the FRT no. 107 dated 30.12.2018 with the observation that from the case diary it is apparent that investigating officer has made much endeavour to detect the accused person and the vehicle in question and he further observed that the defacto-complainant failed to provide requisite information and to furnish the particulars of the accused/driver to the investigating officer.

Learned counsel for the petitioner submits that the investigating officer did not make any effort to find out said vehicle being registration no. WB 67 2553 and submitted the final report in the form of FRT which reflects that the impugned final report is nothing but an outcome of table work. He did not make any effort to seize the vehicle in question nor made any attempt to arrest the accused person. Learned court ought to have considered that the impugned final report in the form of FRT no. 107 of 2018 is just a replica of the previous final reports and it was prepared mechanically without making proper investigation. The court below ought to have considered that the investigating officer did not consult or interact with the

concerned RTO in respect of vehicle in question at the time of submission of the final report in the form of FRT and did not make any attempt to interrogate other accused persons in order to recover the vehicle no. WB 67 2553. Accordingly, the petitioner has prayed for setting aside the impugned order dated 5.4.2017. Learned counsel for the opposite party submits that though the incident allegedly took place in the year 2008, but the petitioner/complainant did not take any step for a long time and only on 2.12.2013 he has filed a petition under Section 156(3) of the Code of Criminal Procedure before the Magistrate. It was also pointed out that the documents filed as annexure in the affidavit-in-opposition which goes to show that the petitioner's statement remains uncontroverted and which speaks that the petitioner herein has taken a loan of Rs 50,000/- from the opposite party no. 3 on 01.8.2003 and again Rs. 5 thousand on 9.5.2004 and again petitioner took loan of Rs. 18,000/- on 2.7.2011. According to the opposite party no. 3 as the petitioner could not repay the aforesaid loan amount out of grudge, he has filed objection petitions one after another against the investigation report submitted. Investigation agency has made every endeavour to arrest the accused person and to seize vehicle in question but in spite of their best effort at least for four times they could not trace and have ultimately filed the final report in the form of FRT. Learned counsel further submits that the petitioner purchased the vehicle in 2004 and appointed a driver in the same year who worked under the petitioner for at least 4 years when the alleged incident took place in the year 2008, but still he failed to give particulars of the driver before

the police during investigation. Moreover, the petitioner has failed to explain as to why an application under Section 156 (3) of the Code was filed in the year 2011 when the incident allegedly took place on 5.1.2008. Furthermore statements from the final report dated 17.5.2016 goes to show that RTO opined that WB 67 2553 and WB 57A 1623 are different type of trucks of which engine and chasis no. are not same and horse power are also different. Accordingly he has prayed for dismissal of the application.

Learned advocate for the State produced the case diary and points out certain relevant pages in the case diary and contends that police has made several attempts during investigation to arrest the accused and also to recover the vehicle in question but as they could not succeed and as the petitioner complainant also failed to furnish whereabouts of the driver, so police had no alternative but to file final report after making investigation for a considerable period of time and after consulting with their superior, they have submitted final report in the form of FRT.

Considered the materials available in the record as well as in the case diary. The investigation report reveals the circumstance which compels the investigating agency to submit final report in the form of FRT. From the earlier final report also it reflects that the complainant could not produce valid papers and also particulars of the driver. Petitioners submitted that the said truck being no. WB 67 2553 has been transferred to WB 57A 1623 under the conspiracy of the opposite party but no document could be placed in support of the said contention.

Learned counsel for the State submits that there is nothing to show that the vehicle being original no WB 67 2553 has been changed to WB 57A 1623 under the conspiracy of the opposite party which statement is also substantiated from the report of the RTO. Investigating agency have also specified that all possible steps were taken but ultimately it could not be detected and also there is no chance to detect the same.

Having considered the aforesaid facts and circumstances of the case and that there is hardly any chance to achieve any fruitful result by making direction for further investigation for the fifth time and that the petitioners could not produce the relevant particulars, I find that this will be an abuse of process of the court if it remains kept pending for an indefinite period. Accordingly, I find no merit in the instant application filed by the petitioner.

Accordingly, CRR 2991 of 2019 is dismissed.

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.)**