

15-03-2022
Subha
Item-87
Ct -.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 3506 of 2018

In Re: An application under Article 227 of the Constitution of India.

In the matter of : ***Nilratan Sardar***

...Petitioner.

Mr. Sabir Ahmed,
Mr. Mujibar Ali Naskar,
Mr. Hillol Saha Poddar
Mr. Shraman Sarkar
Mr. Apan Saha.
Mr. Tasmin Ahmed
Mr. Anwar Hossain

.....for the petitioner.

Mr. Sabyasachi Banerjee
Mr. Sayak Majumder
Mr. Bikram Mitra
Mr. Sounak Sen

.....for the opposite parties.

Mrs. Anasuya Sinha,
Mrs. Debjani Sahu

.....for the State.

The subject matter of challenge of this revisional application relate to the order dated 9th October, 2018 passed by the learned Judicial Magistrate, 1st Court, Diamond Harbour, South 24 Parganas in connection with G.R. Case No. 1104 of 2017 arising out of Magrahat P. S. Case No. 132 of 2017 dated 22.04.2017.

Mr. Ahmed, learned advocate appearing on behalf of the petitioner submits that his prayer under Section 173(8) of the Code of Criminal Procedure was refused by the learned Magistrate on the ground that the petitioner was not a de facto complainant and he

was merely a witness.

The learned court accepted the chargesheet, took cognizance of the offence and the petitioner, who is an affected party being aggrieved approached this court against the rejection of order in an application under Section 173(8) of the Code of Criminal Procedure.

Mr. Banerjee, learned advocate appears on behalf of the opposite party nos. 1 to 8 and resists the submissions advanced by Mr. Ahmed and submits that the petitioner having lost before all the forum has by way of taking out such an application tried to reopen the issues.

According to the learned advocate appearing for the opposite parties, no case has been made out for interference by this court.

Mrs. Anasuya Sinha, learned advocate appearing on behalf of the State produces the case diary.

Attention of this court has been drawn to the chargesheet which has been filed before the learned Additional Chief Judicial Magistrate, Diamond Harbour. I find that the chargesheet was submitted under Sections 420/467/468/471 of the Indian Penal Code. Column no.11 of the report under Section 173(8) of the Code of Criminal Procedure which did not reflect any property/document which have been seized by the Investigating Agency in course of the investigation.

Mrs. Sinha, learned advocate for the State was repeatedly

asked by this court as to whether there is any seizure list in the case diary in respect of any document being seized as the chargesheet has been submitted by the Police Authority under relevant sections of the Indian Penal Code wherein documents are intricately connected and the foundation of the case is also for such alleged offences.

Having regard to the manner in which the investigation has been conducted without any endeavour of the Investigating Agency to rely upon any document on the foundation of which forgery or cheating has been made out or a genuine document has been used as a forged document, I am of the opinion that further investigation of the case is required to be conducted.

Accordingly, the order dated 9th October, 2018 passed by the learned Judicial Magistrate, 1st Court, Diamond Harbour is set aside.

Learned Magistrate is directed to afresh consider the application under Section 173(8) of the Code of Criminal Procedure, by relying upon the observations made above and pass necessary directions upon the police authorities.

With the aforesaid observations, the revisional application being CRR 3506 of 2018 is partly allowed.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

Interim order, if any, is hereby vacated.

The petitioner is granted liberty to communicate this

order to the learned Judicial Magistrate, 1st Court, Diamond Harbour. The learned Magistrate will fix a date on receipt of the order within a fortnight and pass necessary order.

All concerned parties are to act in terms of a website copy of this order duly downloaded from the official website of this court.

(Tirthankar Ghosh, J.)

