

S/L 355(ML)
02.08.2022
Court. No. 19
GB

WPA 10612 of 2020

Sri Anil Chandra Mandal & Anr.
VS
Union of India & Ors.

*Mr. Debasish Chattopadhyay,
Mr. Gobinda Chandra Baidya,
Mr. Tirthankar Basu.*

...for the Petitioners.

*Mr. Samrat Sen,
Mr. Amitava Mitra.*

...for the State.

Mr. Shiv Chandra Prasad.

...for the Respondent nos.1 & 2.

*Mr. Shourjyo Mukherjee,
Mr. Sourojit Dasgupta,
Mr. Vishwarup Acharyya,
Ms. S. Datta.*

...for the Respondent No.10.

Mr. Amit Kumar Ghosh.

...for the Respondent No.14.

Affidavit-in-opposition filed by the respondent no.10,
be kept with the record.

It appears that pursuant to the complaint filed by the petitioner, Kalyani Police Station Case No.89 of 2020 dated February 27, 2020 was registered under Sections 420/406/34 of the Indian Penal Code. Upon completion of the investigation, the police authorities filed an FRT. The petitioner filed a 'Narazi' petition. Upon hearing the 'Narazi' petition, the Inspector-in-Charge, Kalyani Police Station was directed to cause investigation of the case through a competent police officer other than the previous investigating officer. Pursuant to such direction, an investigation was held and the police authorities filed a charge-sheet against one, Asit Chandra Mondal, (which was a typographical error) instead of 'Asit Sen'. The police

authorities prayed for discharge of Rekha Agarwal and Sudhir Srivastav. Cognizance was taken by the learned Magistrate under Sections 420/406 of the Indian Penal Code. However, as the police authorities, informed that Asit Sen expired on April 30, 2021 the said fact was recorded. The prayer for discharge of the accused, Rekha Agarwal and Sudhir Srivastav was allowed. Such order was passed on March 16, 2022 by the learned Additional Chief Judicial Magistrate, Kalyani, Nadia. Thereafter, the court directed that notice to be issued to the defacto complainant.

The petitioner has submitted as follows:-

- a) No document was filed before the learned court below indicating that the accused Asit Sen expired on April 30, 2021
- b) The order for discharge of the accused, Rekha Agarwal and Sudhir Srivastav was passed without hearing the petitioners.
- c) The learned court below directed notice be issued upon the defacto complainant after allowing the prayer of the police authorities for discharging the other two alleged accused persons.

As the order passed by the learned court below is not amenable to writ jurisdiction.

The petitioners are at liberty to approach the appropriate forum in accordance with law.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)