

23.08.2023
Serial no. 45
[G.S.D]

CRR 246 of 2022
With
CRAN 2 of 2023

In the matter of : Erram Fatema

... .. Petitioner

Mr. Satadru Lahiri
Mr. S. Azam

... For the Petitioner

Mr. Madhusudan Sur
Mr. Dipankr Paramanick

... For the State

Affidavit-of-service filed be kept with the record.

The revisional application was preferred challenging the order dated 30th December, 2021 passed by the ACMM-II, Calcutta in connection with Taltala P.S. Case No. 86 dated 08.09.2021 under Sections 498A/406 of the I.P.C.

The impugned order reflects that the Learned ACMM-II, Kolkata, accepted the discharge of all the accused persons without informing the defacto-complainant and transmitted the case records to the Learned Metropolitan Magistrate, 20th Court, Calcutta. Since the defacto-complainant was not informed at the relevant period of time, the petitioner could not file protest petition in respect of the charge-sheet, which was submitted in a case, where number of accused have been discharged.

In view of the above, I am of the opinion that the order dated 30.12.2021 suffers from illegality.

The case has presently been transferred to the Metropolitan Magistrate, 20th Court, Calcutta. The petitioner is granted liberty to file an application under section 173(8) of the Code of Criminal Procedure expressing her grievance in respect of the investigation so conducted and the same be filed within a fortnight from date.

The Learned Magistrate would hear the State and any other affected party and, thereafter, within sixty days dispose of the application under Section 173(8) of the Cr.P.C. in accordance with law.

Accordingly, the order dated 30.12.2021, so far as the order of taking cognizance is concerned accepting the discharge of the accused persons in the charge-sheet, is hereby quashed.

With the above observations, CRR 246 of 2022 along with CRAN 2 of 2023 is disposed of.

Pending application, if any, is also disposed of.

Parties to act on a server copy of this order, duly collected from the official website of the Hon'ble High Court, Calcutta.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Tirthankar Ghosh, J.)