

D/L48
18.01.2023
Bpg.

C.R.R.503 of 2021

In Re: An application under Article 227 of the Constitution of India read with Section 482 and Section 483 of the Code of Criminal Procedure, 1973;

Maya Majumder
Versus
The State of West Bengal and another

Mr. Arunangshu Chakraborty,
Mr. Aswini Kumar Bera.
...for the petitioner.

Mr. Avik Kumar Das,
Mr. Dilip Kumar Sadhu.
...for the opposite party no.2.

Mr. Saibal Bapuli,
Mr. Bibaswan Bhattacharya.
...for the State.

The petitioner is aggrieved by the acceptance of final report by the learned Magistrate and refusing the prayer advanced by the petitioner for further investigation which was passed on 16th December, 2020.

Learned advocate appearing for the State has submitted a report. Let the same be kept with the record.

So far as the allegations which were initially made in the letter of complaint treated to be First Information Report of the instant case, the police authorities investigated the contents of the allegations made therein. As such, the police authorities restricted themselves to the authenticity and the genuinity of the documents which were called in-question in the background of the facts as

alleged by the complainant. Consequently, the police authorities checked the office of the ADSR, Katwa and found the same to be as genuine as author of the documents and the signatories definitely reflected the signatures to be genuine.

Learned advocate appearing for the petitioner disputes the intrinsic contents of the document which was registered as well as the signatures and submits that civil proceeding is pending and there has been an injunction order passed by the learned Civil Judge. It has also been alleged that the accused/opposite party no.2 after obtaining bail has allegedly broken the padlock and there are disputed questions whether the accused/opposite party no.2 is in the property or tried to enter the property.

So far as this part of the allegations are concerned from the side of the present petitioner, these facts could not have been available when the complaint was made with the police authorities initially. These are changed circumstances. Consequently, the order dated 16.12.2020 passed by the learned Magistrate on the basis of the findings of the Investigating Officer in the background of the complaint which was filed cannot be said to be illegal. As such, no interference is called for in the order dated 16.12.2020. It is established principle of law that the second complaint is never barred.

In this case, there is a separate cause of action which arose with the progress of the case and passage of time which was never the subject matter of the case when the proceedings relating to Katwa Police Station Case No.498 of 2018 dated 19.09.2018 was

proceeding/progressing.

I have perused the allegations made in the application under Section 173(8) of the Code of Criminal Procedure. I am of the opinion that these are subsequent events which are to be separately dealt with. The petitioner, as such, is granted liberty to prefer an application either under Section 156(3) of the Code of Criminal Procedure or under Section 200 of the Code of Criminal Procedure before the jurisdictional court. The learned court on an application of mind would dispose of the same in accordance with law.

With the aforesaid observations, CRR 503 of 2021 is disposed of.

Pending application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Tirthankar Ghosh, J.)