

10.04.2023
Court No.13
Item No.27
pk

WPA 5310 of 2023

**Jagannath Naskar
Vs.
State of West Bengal and Ors.**

Mr. Pankaj Halder,
Mr. Sanatan Panja,
Mr. Samarjit Balial

... For the petitioner.

Mr. Nilotpal Chatterjee,
Mr. Amrita Lal Chatterjee

... For the State.

The petitioner is aggrieved by the prosecution in G. R. Case No. 2338 of 2020 and S. C. No. 171 of 2021 arising out of Mathurapur Police Station Case No. 295 of 2020 which is now pending before the learned Additional District and Sessions Judge, Fast Track, 1st Court, Diamond Harbour, South 24 Parganas.

It is submitted that the court below without hearing or notice to the Public Prosecutor, without considering the case diary and materials on record and without assigning any sufficient reason has discharged two of the three accused persons under Section 227 of the Cr. P. C.

It further appears from the order dated 28th April, 2022 passed by the District and Sessions Judge that the Public Prosecutor has aggressively supported the case of discharge. The petitioner is the de facto complainant. The petitioner has applied before the Legal Remembrancer,

West Bengal for change of Public Prosecutor and/or for appointment of Special Prosecutor.

In those circumstances, the office of the Legal Remembrancer, West Bengal having its office at City Civil Court at Calcutta, Building nos. 2 and 3, Kiran Sankar Roy Road, Calcutta-700 001 shall forthwith mandatorily and positively within a period of seven days from date take a decision on the petitioner's application in accordance with law and communicate the same to the learned advocate on record for the petitioner.

The Registry shall communicate this order to the Legal Remembrancer.

It is made absolutely clear that this Court has not in any way entered into the merits of the order of discharge or the charge sheet, which is pending consideration before the District and Sessions Court.

The writ petition is disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)