

D/L163
04.08.2023
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C.R.R. No.1669 of 2021

In Re: An application under Sections 397/401 read with Section 482 of the Code of Criminal Procedure, 1973 read with Article 227 of the Constitution of India.

Sri Amitava De Bhowmick
Versus
The State of West Bengal and others

Mr. Abhimanyu Banerjee
Ms. R. Kalam.
...for the petitioner.

Mr. Anwar Hossain,
Ms. Manisha Sharma.
...for the State.

Petitioner is aggrieved by the manner in which the investigation has been carried out and the report under Section 173 of Code of Criminal Procedure has been filed before the jurisdictional court.

So far as the documents are concerned, I only find one statement which is also very hazy. The complainant himself was not examined or the documents in respect of the property so far as the allegations are concerned were taken into account, neither any efforts were there for recovery of forged documents.

Having considered the manner in which the investigation was initiated and the final report was submitted before the jurisdictional court, this Court has reserved its opinion regarding the approach of the Investigating Officer while investigating the

case.

It has been informed that the de facto complainant has preferred an application under Section 173(8) of the Code of Criminal Procedure which is pending before the learned ACMM-II, Calcutta.

The grievance of the petitioner was that the documents which has been referred to in the report under Section 173 of the Code of Criminal Procedure should have been served upon him before the application for further investigation is advanced before the learned ACMM-II, Calcutta.

I find that only one statement under Section 161 of the Code of Criminal Procedure being recorded of Timir Kumar Poddar. There are no seizure also which have been effected, consequently, except the formal FIR, charge-sheet and application under Section 156(3) of the Code of Criminal Procedure, there is nothing in the case diary for the State to hand over to the de facto complainant.

Having regard to the manner in which the investigation has been carried out, this Court reserves its opinion and leave to the discretion of the learned ACMM-II, Calcutta to decide the further course of action.

Report submitted by the learned advocate for the State be kept with the record.

With the aforesaid observations, CRR 1669 of 2021 is 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.)