

07-06-2023
Subha
Item no.02
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 2834 of 2022

Gaurab Kumar
-versus-
State of West Bengal & Ors.

In Re : An application under Section 482 of the Code of Criminal Procedure.

Mr. Apalak Basu
.for the petitioner.

Mr. Arijit Ganguly
Mrs. Debjani Sahu
...for the State.

The petitioner is aggrieved by the order dated 24-06-2022 passed by the learned Chief Judge, City Sessions Court, Calcutta in connection with Criminal Revision No. 86 of 2021 wherein the learned court was pleased to affirm the order dated 06.02.2021 passed by the learned Additional Chief Metropolitan Magistrate-II in connection with Complaint Case No. 387 of 2018.

The learned Magistrate was pleased to stay further proceedings relating to Complaint Case No. 387 of 2018. The grievance of the petitioner, being the de facto complainant is that on the date on which the learned Magistrate considered the application under Section 210 of the Code of Criminal Procedure final report closing the investigation was already filed by the Investigating Agency. The learned Magistrate without appreciating the fact that the petition under Section 173(8) of the Code of Criminal Procedure filed by the de facto complainant was pending

stayed the complaint case.

Petitioner is directed to serve a copy of the revisional application upon Mr. Arijit Ganguly, learned advocate, who ordinarily appears on behalf of the State. His appointment may be regularized by the concerned Authorities in due course.

I have considered the issue of law canvassed by the de facto complainant/petitioner. Having regard to the legal and factual aspect of the present case, the following directions are passed:-

1. The learned Magistrate would first dispose of the application under Section 173(8) of the Code of Criminal Procedure filed at the instance of the petitioner.
2. If the learned Magistrate is of the opinion that further investigation of the case is required it is only at that stage the learned Magistrate would consider the application under Section 210 of the Code of Criminal Procedure and apply his discretion regarding the outcome of the continuance of the complaint case.
3. So far as the order dated 06.02.2021(passed by the learned Magistrate) including the order dated 24.06.2022(passed by the learned Chief Judge, City Sessions Court, Calcutta) is concerned, the same is kept in abeyance till the disposal of the application under Section 173(8) of the Code of Criminal Procedure.

With the aforesaid observations, the present revisional application being CRR 2834 of 2022 is disposed of.

All Pending applications, if any, are disposed of accordingly.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]