

S/L-74
31-07-2023
KOLE

CRR 2753 of 2023

Priyanka Rai
-Vs.-
The State of West Bengal

Mr. Sabyasachi Chatterjee,
Mr. P. Ghosh,
Mr. B. N. Ghosal,
Mr. Omar Faruk Gazi,

... for the petitioner.

Mr. Tanmay Kr. Ghosh,
Mr. M. F. A. Begg,

... for the State.

The petitioner is directed to serve a copy of the revisional application upon Mr. Tanmay Kumar Ghosh, who ordinarily appears on behalf of the State. His appointment may be regularized by the concerned authorities.

The petitioner is aggrieved by the factum of a case which was registered under Section 302 of the Indian Penal Code along with other Sections and at the time of filing of charge sheet was converted under Section 304 of the Indian Penal Code. The petitioner intended to file a Naraji Petition with supporting materials. The learned Additional Chief Metropolitan Magistrate at Calcutta passed an order dated 12.07.2023 observing that since cognizance has already been taken, there is no scope for entertaining the Naraji Petition. The view taken by the learned ACMM at Calcutta is not in consonance with the provisions of law. The defacto complainant will always have a right to pray for further investigation in cases where the investigating authorities while in course of investigation has failed to express

their powers and/or where there is a feeling of the complainant that there was a biased attitude prejudicing the right of the complainant.

Accordingly, I direct that in case the defacto complainant/petitioner before this Court prefers an application under Section 173(8) of the Code of Criminal Procedure, the learned ACMM would consider the same on merits and dispose of the same in accordance with law.

With the aforesaid observations, CRR No. 2753 of 2023 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 be supplied to the parties, if applied for, as early as possible.

(Tirthankar Ghosh, J.)