

23.11.2023
Serial no. 6
[G.S.D]

CRR 3379 of 2023

In the matter of : Suman Chaubey @ Suman Kumari Upadhyay

... .. Petitioner

MR. ATIS KUMAR BISWAS
MR. AMIT SINGH
Ms. Jyoti Agarwal

... PETITIONER

MR. MADHUSUDAN SUR
MR. MANORANJAN MAHATA

... FOR THE STATE

Mr. Pawan Kumar Gupta
Mr. Vijay Verma
Mr. Santanu Sett

... for the O.P. Nos. 5 and 6

A pen drive has been handed over to Mr. Biswas, Id. advocate for the petitioner, who had a grievance that in respect of the seizure which was made in the month of February, 2023, a supplementary charge-sheet ought to have been filed.

According to the petitioner, charge-sheet was filed in the month of January, 2017 and seizure was effected after the said date.

Ld. advocate submits that because of non-availability of the aforesaid materials, he could not effectively prefer his application under section 173(8) of the Cr.P.C., which was

rejected by the Ld. JM, 3rd Court, Howrah by its order dated 22.6.2022.

Mr. Gupta, Id. advocate for the private opposite party, has opposed the contention of the petitioner in respect of preferring the application under section 173(8) of the Cr.P.C.

Mr. Sur, Id. advocate for the State has produced the original case diary along with the documents maintained by the police authorities. Although, the formal part and the bottom part of the formal charge-sheet (report under Section 173 of the Cr.P.C.) reflects that the date is 24.1.2017, but in the main body of the report, it reflects the date to be 22.3.2017.

Having considered such inadvertent clerical mistake, I am of the view that there has been only one charge-sheet which has been filed and the seizure being in the month of February, 2017 was prior to the charge-sheet being submitted before the jurisdictional court. It has also been stated that the pen drive was not available with the petitioner and, as such, he could not go through the contents of the same for presenting the application under section 173(8) of the Cr.P.C. effectively.

Hence, I grant liberty to the petitioner to take out an application under section 173(8) of the Cr.P.C. before the jurisdictional Magistrate *in seisin* of the matter within a

fortnight. The Id. jurisdictional Magistrate would freshly consider the same in the light of the materials placed by the petitioner who is an aggrieved party and after effecting service upon the necessary parties would dispose of the same at the earliest preferably by 31st of January, 2024.

Consequently, the order dated 22.6.2022 passed by the Id. JM, 3rd Court, Howrah, so far as it relates to the rejection of *naraji* petition is considered, is hereby, set aside.

With the aforesaid observations, CRR 3379 of 2023 is disposed of.

Pending application, if any, is also disposed of.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court at Calcutta.

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

(Tirthankar Ghosh, J.)