

18.10.2023
Serial no. 128
[G.S.D]

CRR 3957 of 2023

In the matter of : Dilip Chowdhury

... .. Petitioner

Mr. Sabyasachi Chatterjee
Mr. S. DAs
Mr. Badrul Karim
Ms. Indrani Roy
Mr. Dipankar Das

... for the petitioner

Mr. Chatterjee, Id. advocate for the petitioner, has challenged the continuation of Madhyamgram P.S. Case No. 457 of 2023 dated 24.7.2023.

According to the Id. advocate, the main thrust of contention is that the petitioner has been falsely implicated in connection with the instant case by the police officer against whom the present petitioner lodged a complaint for extortion of money before the Vigilance Commission.

I have considered the contentions advanced in the present revisional application as well as the enclosures and, I find that the same are question of facts, which are to be gone into either at the stage of the investigation or at the stage of the trial.

The investigation of the case is in progress. The priority, at the stage of investigation, is to elicit the truth in respect of the allegations. The issue which is being canvassed is an issue relating to *mala fide* and the same is to be tested by the investigating officer in course of investigation of the case.

Having regard to the fact that the present petitioner happens to be a history-sheeter, at this stage, I do not intend to stall the investigation.

Let the investigating agency arrive at its conclusion by filing a report under Section 173 of the Cr.P.C.

If the petitioner is asked to face trial, in that case, the petitioner would be at liberty to take out an application under Section 239 of the Cr.P.C. before the Id. Trial Court at the appropriate stage for his discharge. The Id. Magistrate would consider the said application in accordance with law without being influenced by any of the observations made by this Court in this revisional application.

With the aforesaid observations, CRR 3957 of 2023 is disposed of.

Pending application, if any, is 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.)