



Crl.M.P.No.18174 of 2023
in Crl.O.P.No.8422 of 2023

Dr.G.JAYACHANDRAN, J.

The order of the Judicial Magistrate refusing to remand the accused produced before the Magistrate came to be challenged by the State before this Court in Crl.O.P.No.8422 of 2023.

2. This Court after perusing the record found that the trial Court for want of particulars declined to remand the accused produced for judicial custody citing the Hon'ble Supreme Court judgment as well as Section 59 of the Code. The present petitioner who is the defacto complainant seeks clarification of the order dated 17.10.2023 passed by this Court stating that the refusal to remand the accused is not in tune with Section 59 of Code and therefore, the same has to be clarified. Further in this petition the accusation against the learned Judicial Magistrate is also made which is irrelevant for this Court to consider, when an application is filed seeking clarification of the order passed earlier.

3. Adverting to the provisions of Section 59 of the Code which says no person who has been arrested by the police officer shall be discharge except on own bond or bail or under the special order of the Magistrate, which means the own bond or on bail relates to the police officer and special order of the Magistrate is in respect of the Magistrate before whom the apprehended person is produced.

Dr.G.JAYACHANDRAN, J.



1p1

4. Now reading of Section 59 of the Code along with the order passed by the Judicial Magistrate dated 10.01.2023, the Magistrate after referring the Hon'ble Supreme Court judgment in *Arnesh Kumar Vs. State of Bihar* reported in *AIR (2014)8 SCC 273* had released the person produced before her for remand on following three conditions (i) the accused should appear before the District Crime Branch daily at 10.00 a.m., until further orders (ii) to cooperate with the investigation (iii) within 15 days should furnish bond for sum of Rs.25,000/- with two sureties. This falls under the 3rd limb of Section 59 of the Code. On 17.10.2023, when the matter was taken up for consideration, this Court after satisfying that there is no error in the order of the Judicial Magistrate discharging the person produced before her for judicial custody, had also noted that the accused has not been properly cooperating with the investigation and certain terms has also been issued.

5. In view of the above fact, this Criminal Miscellaneous Petition seeking clarification by the victim deserves to be dismissed. Accordingly the same is dismissed.

23.11.2023

rpl

Crl.M.P.No.18174 of 2023
in Crl.O.P.No.8422 of 2023