

03-05-2024
Subha
Item no. 40
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 422 of 2023

Resma Bibi @ Reshma Bibi and anr.

-versus-

State of West Bengal

Mr. Sabyasachi Hazra
.....for the petitioners.

Mr. Debasish Roy, Id. PP
Mr. Arijit Ganguly
Ms. Sreemoyi Roy
...for the State.

Report submitted by the learned Public Prosecutor be kept
with the record.

I have considered the case diary as placed by the learned
Public Prosecutor in connection with Gangajalghati P. S. Case No.
74/15 dt.19-05-2021 which is under Section 5/6 of the Explosive
Substance Act, 1808.

The petitioners preferred an application for discharge
under Section 167(5) of the Code of Criminal Procedure. On 12th
June, 2019 and thereafter the Investigating Agency submitted the
chargesheet on 31st October, 2019.

Having considered the purpose for which Section 167(5)
CrPC and the interpretation made therein, the stoppage of
investigation or further investigation is not automatic and the
provision do not contemplate that the learned Magistrate would

discharge the accused automatically.

It is the duty of the learned Magistrate to assess the materials collected by the Investigating Agency to point out whether an offence is made out for taking cognizance of the same.

In the instant case, record reflects that the search and seizure and materials relied upon by the prosecution were collected within the time framework of the statute but what was left is an order of sanction to be to obtained.

The Investigating Officer complied the same within the time frame but the Authority being the District Magistrate, Bankura granted the same on 22nd October, 2019. For pendency of sanction the petitioners will not be entitled to a discharge where the materials were collected by the Investigating Officer and the Investigating Officer also cannot be made responsible for the order of sanction which is to be granted by a different Authority.

Having considered the same and the fact that the chargesheet was submitted only after obtaining the sanction while the materials were collected within the time framework as provided under the provisions Section 167(5) CrPC, I am of the view that no case of impediment is made out. Accordingly, the order passed by the learned CJM, Bankura on 11th August, 2022 in G R. Case No 679 of 2015 do not call for any interference. Thus, the revisional application being CRR 422 of 2023 is dismissed.

Pending applications, if any, are consequently disposed of.

Case diary be returned to the learned Public Prosecutor appearing for the State.

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]