

SL.-18

Ct.- 32

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side**

Present:

The Hon'ble Justice Ajay Kumar Gupta

**C.R.R. 673 of 2017
With
CRAN 1/2017 (Old CRAN 3331/2017)**

**Kanishk Sinha
Versus
State of West Bengal**

For the State : Mr. Binay Panda, Adv.
Mr. S. Bhakat, Adv.

Heard on : 04.01.2024

Judgment on : 04.01.2024

1. Nobody appears on behalf of the petitioner on call. Even on earlier occasion no one represented the petitioner nor any accommodation sought for.

2. This Court also issued an administrative notice upon the petitioner. Bailiff has reported that the petitioner is not found in the address as given in the application. Security guard also informed him that he does not know the person namely, Kanishk Sinha

3. Mr. Binay Panda, learned advocate along with Mr. S. Bhakat, generally appears for the State are requested to represent the State. Their appointment may be regularized by the office of the learned Public Prosecutor, High Court, Calcutta.

4. Learned counsel for the State submits that the case may be disposed of on merit as the learned Sessions Judge by an order dated 10.02.2017 has given an opportunity to adduce evidence to the defacto-complainant for proper and effective adjudication of the case pending before the learned Magistrate as such he prays for dismissal of this instant revisional application.

5. Heard the Learned counsel for the state and on perusal of record , this court finds this instant case pertains to the year 2017, nature of prayer and to avoid further delay, the record is taken up for the purpose of disposal on merit.

6. The brief facts of the case are relevant for the purpose of disposal of the case as follows.

The instant application has been filed by the petitioner under section 482 of the Criminal Procedure Code, 1973, challenging

the impugned order dated 10.02.2017 passed by learned Sessions Judge at Alipore in Criminal Motion No. 58 of 2017 in connection with criminal proceedings being B.G.R. Case no. 3066 of 2008 (State Vs. Shyamal Goswami) pending before the learned Judicial Magistrate, 7th Court, Alipore, District South 24 Parganas whereby and wherein the learned Judge allowed the Criminal Motion and set aside the impugned order passed on 24.01.2017 by the learned magistrate. Wherein Ld. Magistrate after being exasperated with the conduct of the de facto complainant following his repeated absence on the date of hearing and had expunged him from witness list and fixed on 20.02.2017 for evidence of CSW 2. Learned Judge given one more opportunity to the de facto-complainant to adduce evidence as CSW 1 before the learned Magistrate on 20.02.2017 subject to condition that he shall deposit a cost of Rs. 2,000/- with the Secretary, DLSA, Alipore after hearing the parties.

7. It was further directed by the learned Magistrate to record evidence of the defacto-complainant as CSW 1 on that very date after ascertaining that the defacto complainant has deposited the costs with the Secretary, DLSA, Alipore and if the defacto-complainant fails to turn up on that date for making payment of such costs, the learned Magistrate will proceed accordingly.

8. Therefore, upon perusal of the aforesaid order it appears that the learned Sessions Judge has given one more opportunity for the interest of justice to adduce evidence by the defacto-complainant subject to payment of costs, which appears correct and appropriate order.

9. In such circumstances, I do not find any illegality, perversity or any jurisdictional error in passing the impugned order under challenged. Hence, the instant revisional application has devoid of merit.

10. Accordingly, the instant revisional application being **CRR 673 of 2017** is dismissed without any order as to costs.

11. Consequentially, the connected application being **CRAN 1/2017 (Old CRAN 3331/2017)** is also disposed of.

12. Interim order, if any, stands vacated.

13. Department is directed to send down the lower court records, if any, immediately.

14. Let the order be communicated to the Ld. Court below for information.

15. Liberty is granted to all parties to act in terms of the copy of this order downloaded from the official website of this court.

16. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties taking all legal formalities.

(Ajay Kumar Gupta, J)

Amalranjan [AR(Ct.)]