

25.04.2024.
03.
Ct. No.237
Bd.

C.R.R. 1221 of 2023

Bhavna Sarawgee
-vs-
Union of India & Ors.

Mr. Arindam Sen
Mr. Prashant Agarwal
Mr. Saurav Basu ... for the petitioner

Mr. Sujoy Sarkar
Mr. Prasun Mukherjee
Mr. Indranil Roy Chowdhury ... for Sudipta Sen (O.P.No.3)

Mr. Amajit De ... for the CBI

Learned counsel appearing on behalf of the petitioner is present. Learned counsel appearing on behalf of CBI/Opposite Party No. 2 herein as well as learned counsel appearing on behalf of Sudipta Sen/Opposite Party No.3 herein are also present.

In this revisional application challenge is that order dated 8th February, 2023 arising out of Order dated 18.01.2020 whereby learned Additional Chief Judicial Magistrate, Alipore, 24 Parganas (South) refused to modify the order dated 18th January, 2020.

Learned Additional Chief Judicial Magistrate, Alipore, passed the order dated 18.01.2020 in connection with case no. RC-04/S-2014 allowing the petitioner of this revisional application to take possession of the subject two shop rooms

after obtaining no objection from Sudipta Sen and on filing willingness to provide alternative steps for keeping the materials kept in those shop rooms i.e., shop room no. 1 and 2 located at Midland Park, Sector-V. Salt Lake, Kolkata.

Being aggrieved petitioner of this revisional application filed one application for modification on 14th September, 2022.

That prayer for modification was dealt with by the learned Additional Chief Judicial Magistrate, Alipore, by his order dated 8.2.2023 wherein learned Magistrate passed an order holding *inter alia* that prayer for modification cannot be allowed in absence of specific provision in the Code of Criminal Procedure which falls in the domain of inherent power. But criminal courts are not vested with inherent power to alter, modify and to review its own order. Learned Magistrate relied on a decision in the case of ***Siba Bisoi and Ors. –vs- State of Odisha, (IA No. 2162 of 2021)***.

In this Court petitioner impleaded Sudipta Sen as opposite party no. 3 and served notice upon him.

Mr. Sujoy Sarkar, learned counsel appeared on behalf of opposite party no. 3 i.e., Sudipta Sen.

On behalf of CBI a report has already been submitted before this Court and is taken on record. From the report I find particularly in paragraph 8 that CBI has no objection regarding prayer of the petitioner with regard to possession of the shop rooms. It was further submitted on behalf of CBI

that the articles kept in the shop rooms were never seized by the CBI and they would not rely upon those articles either during investigation or trial. It has further been stated in the report by the CBI that the actual owner of the documents is Sarada Group of Companies.

Learned counsel appearing on behalf of CBI has submitted that the CBI has no objection regarding possession of the shop rooms and documents kept in those rooms are not required either for the purpose of investigation or trial.

Learned counsel appearing on behalf of Sudipta Sen/opposite party no. 3 herein has specifically submitted that opposite party no. 3 has no objection for taking possession of those two shop rooms by the petitioner and it is also submitted that all the documents kept in those two shop rooms may be disposed of by the petitioner.

In the aforesaid view of the matter petitioner is at liberty to take possession of those two shop rooms and to dispose of those materials kept in those rooms after keeping a Panchanama by the petitioner herself regarding nature of the documents subject to furnishing of P.R. bond for the amount already decided by the learned Magistrate.

With the aforesaid observation and direction this revisional application is disposed of.

Both sides will act on a server copy of this order downloaded from the official website of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all formalities.

(Bibhas Ranjan De, J.)