

D/L53
06.03.2024
Bpg.

C.R.R.1318 of 2023

In Re: An application under Section 482 read with Section 401 of the
Code of Criminal Procedure;

Md. Abdul Hai Molla
Versus
The State of West Bengal and another

Mr. Raja Biswas
Mr. Abhijit Sarkar.
...for the petitioner.

Petitioner has challenged the continuance of Minakhan Police Station Case No.66 of 2023 dated 25.02.2023 which was registered for investigation under Sections 341/325/307/427/436/506/34 of the Indian Penal Code.

Learned advocate appearing for the petitioner submits that there was a direction on 31.01.2023 in WPA 13395 of 2021 wherein a co-ordinate Bench of this Court was pleased to provide security to the present petitioner. According to the petitioner, the narration of events in the application under Section 156(3) of the Code of Criminal Procedure which has been the foundation of the present FIR is on a basis of frivolous set of facts as it is not possible in presence of a police security the incident would take place.

A court of law cannot decide the termination of a proceeding so far as the investigation is concerned on hypothesis. Whether in presence of security or absence of the security the incident happened is question of fact which the investigating officer is supposed to unearth. The investigation commenced on or about

25th February, 2023. More than one year has passed since then.

Having considered the period so consumed, I am of the view that the police authorities would submit their report under Section 173 of the Code of Criminal Procedure, if not yet already submitted. Petitioner would be at liberty to approach this Court after the report under Section 173 of Cr.P.C. is filed before the jurisdictional court along with the documents under Section 207 of the Code of Criminal Procedure (which would be supplied) in connection with the instant case.

With the aforesaid observations, the revisional application being CRR 1318 of 2023 is disposed of.

Pending connected application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Tirthankar Ghosh, J.)