

30-04-2024
Subha
Item no. 20
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
CRR 2258 of 2023

Syed Nasirul Hossain.

-versus-

State of West Bengal & Ors.

Mr. Amitabha Ghosh
Mr. Debasis Majhi
....for the petitioner.

Mr. Madhusudan Sur, Id. APP
Mr. Dipankar Paramanick
...for the State.

Petitioner is aggrieved by the order dated 18-04-2023 passed by the learned ACJM, Bolpur in connection with Labpur P S. Case No. 138 of 2022 dated 05-09-2022.

Records reflect that on 17-04-2023, the learned court fixed date on 18-04-2023 observing that the final report has been submitted and notice has been served upon the de facto complainant by the Investigating Officer to appear before the court on 18th April, 2023. On 18th April, 2023 the de facto complainant was not represented, the learned ACJM, Bolpur accepted the final report and disposed of the case thereby releasing the accused persons and discharging them from bail bonds.

Having considered that on two consecutive dates, the learned ACJM, Bolpur fixed dates for the final report to be considered and same was accepted, I am of the opinion that it was incumbent upon the learned ACJM, Bolpur to check the records and assess whether effective steps were taken for the notice to be served upon the de facto complainant. It is not only the

Investigating Officer's duty to serve upon the de facto complainant as the date has been fixed by the learned court. The court should have under the circumstance served a notice upon the de facto complainant for taking appropriate steps. The same not having been done in the instant case, I am of the view that the de facto complainant has seriously been prejudiced as it is the de facto complainant at whose instance the case was registered for investigation and he or she is entitled to file a naraji or protest petition.

The said right cannot be taken away from the de facto complainant. Considering the same, I am of the view that the order dated 18-04-2023 calls for interference and the same as such is set aside. Consequently, the revisional application being CRR 2258 of 2023 is allowed.

Petitioner submits that an application under Section 173(8) of the Code of Criminal Procedure is already there in the records. In such circumstances, the records of the case be placed before the learned Magistrate on 15th May, 2024. Learned Magistrate would hear out the application under Section 173(8) of the Code of Criminal Procedure and decide the same in accordance with law.

Pending applications, if any, are consequently disposed of.

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]

