

CRR No. 2419 of 2024

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CRAN 1 of 2024

In the matter of : Nidhi Sanei petitioner.

Mr. Sandipan Ganguly
Mr. Avik Ghatak
Mr. Rohan Ojha
Mr. S. K. Ray
Mr. Surojit Saha
Ms. Antalina Guha ...for the petitioner.

Mr. Debasish Roy
Mr. Rudradipta Nandy
Ms. Sanjana Saha ...for the State.

Mr. Amartya Ghose
Mr. Sourav Chatterjee
Mr. Somopriyo Choudhury
Mr. Siddhartha Paul
Mr. Souradeep Ghosh ...for the opposite party.

Heard learned counsels for the parties.

The petitioner who is one of the accused in GR Case No.927 of 2023 pending before the learned Additional Chief Judicial Magistrate, Sealdah assails the order passed by the learned Magistrate on 7th May, 2024 allowing an application filed by the de facto complainant/ private opposite party under Section 173 (8) of the Code of Criminal Procedure.

On a bare reading of the order impugned, it appears that the learned Magistrate chose to allow the application under Section 173 (8) of the Code primarily for the reason

that the de facto complainant who made the application was not satisfied with the charge sheet after investigation of the investigating officer. Strangely, the learned Magistrate wanted to give “a fair chance of hearing” to the de facto complainant and allowed the application. Besides a single sentence that the learned Magistrate perused the case record and other material available therein, there is no reflection in the order impugned that the case diary and other relevant material were gone through or considered by the learned Magistrate in passing the said order.

The order is devoid of any reason whatsoever. On the said ground itself the order impugned is liable to be set aside.

The order dated 7th May, 2024 passed in GR Case No.927 of 2023 passed by the learned Additional Chief Judicial Magistrate, Sealdah is set aside.

The learned Magistrate is directed to consider the application under Section 173 (8) of the Code afresh and pass a reasoned and speaking order upon consideration of the relevant material produced before him including the Case Diary.

In doing so the learned Magistrate shall bear in mind the proposition of law laid down by the Hon’ble Supreme Court in the judgments reported in 2004(5) SCC 347 and 2023 (3) RCR (Criminal) 636.

With the above observations and directions, the revisional application being CRR 2419 of 2024 is disposed of.

Consequently, the application being CRAN 1 of 2024 is disposed of.

Case Diary be returned.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)