

16.07.2024
Court No.35
Item No.04
Subha

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 18927 of 2021

Hyder Ali Sk and Ors.
Vs
State of West Bengal and ors.

Mr. Partha Sarathi Bhattacharya
Mr. Bidyut Baran Biswas
...for the petitioners.

Ms. Ipsita Banerjee
...for the State.

Earlier by an order dated 24-06-2024 this court directed the State to submit a report as to whether any step(s) have been taken by the de facto complainant before the learned trial court in connection with Hariharpara P. S. Case No. 511 of 2021 dated 02-12-2021.

Learned advocate for the State submits that a report under Section 173 CrPC has been filed before the jurisdictional court and the Investigating Agency has arrived at their conclusion as mistake of fact.

Petitioners approached this court with specific prayers when the investigation was under progress. As the investigation has already been concluded with the observations of the Investigating Officer and the same is closed, I am of the view that until and unless the investigation is reopened the prayers so sought for

in the prayers of the present writ petition cannot be entertained.

It has been further informed on behalf of the State that on 25-03-2022 a notice was served upon the de facto complainant. It has also been informed that no step has been taken by the de facto complainant before the learned trial court. In view of the present position, I direct that the jurisdictional Magistrate would entertain the application under Section 173(8) of the CrPC if the same is filed at the instance of the de facto complainant or any affected party within a period of 60 days from the date of the communication of this order.

It would be the absolute discretion of the learned jurisdictional court to decide on the issue as to whether further investigation is required or not. This court has not entered into the merits of the case but has only granted liberty to take out an application for further investigation before the jurisdictional court.

With the aforesaid observations, the writ petition being WPA 18927 of 2021 is disposed of.

Report so submitted by the State be kept with the record. A copy of the same has been handed over to the learned advocate for the petitioners in court.

All parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

(Tirthankar Ghosh, J.)