

08.03.2024
Serial no. 123
[G.S.D]

CRM (SB) 171 of 2023

In the matter of : Chandrani Bhattacharya
... .. Petitioner

Ms. Chandrani Bhattacharya
... for the petitioner-in-person

Mr. Sudip Ghosh
Mr. Bitasak Banerjee
... for the State

Mr. Francis Samson Correa
Mr. Sunny Nandy
Ms. Sneha Singh
Ms. Pooja Kumari ... for the private respondent

Report submitted by the Id. Advocate for the State
be kept with the record.

Certified copy submitted on behalf of the private
opposite party be also kept with the record.

The investigation of the case was conducted by the
police authorities associated with Watgunge Women Police
Station. Subsequently, prosecution is to be conducted by the
Id. Public Prosecutor engaged by the State.

The order dated 21.12.2023 passed by the Id. JM,
2nd Court, Alipore, reflects that there was a performance of
the defacto-complainant and/or her advocate and the
private opposite party/accused. Id. Public Prosecutor
conducting the case do not seem to have any audience or
presence when the order was passed.

Naturally, the State will not be in a position to conduct the prosecution on the subsequent dates, if the knowhow or the progress of the case is not within the knowledge of the Id. Public Prosecutor conducting the case.

Ld. JM, 7th Court, Alipore, is directed to see that in connection with Watgunge Women Police FIR No. 04 of 2022 dated 2.3.2022, even if, there is a tensed atmosphere created at the instance of the defacto-complainant and the accused persons, it would be the State, who would be responsible for conducting the prosecution.

The Id. Magistrate would be at liberty to allow the defacto-complainant to proceed in accordance with Section 301 of the cr.p.c.

Having considered that the audience of the Id. Public Prosecutor was not there on 21st of December, 2023, I set aside the order dated 21.12.2023 allowing the application under section 205 of the cr.p.c.

The State would voice its objections or endorse the view so far as the application under section 205 of the cr.p.c. is concerned but the State must be heard at least when the application is taken up for disposal.

The Id. Magistrate would rehear the application under section 205 of the cr.p.c so filed at the instance of the accused persons and independently decide the same without being influenced by any of the observations made by this

court as this court has not entered into the question on facts or the law as to whether Section 205 of the cr.p.c. should be allowed or not but, only reminded the court that the necessary party in this case is the State and the State must be allowed to have its audience at the time when the application is heard out.

The case is under section 509/34 of the IPC.

Having regard to the fact that charge-sheet has already been submitted, the prayer for cancellation of bail, at this stage, is not entertained.

The Id. Magistrate would decide the issue as directed above in respect of Section 205 of the cr.p.c. and, thereafter, proceed with the case by fixing at least one date in a month so that the trial of case can be taken to its logical conclusion within a reasonable period of time.

With the aforesaid observations, CRM (SB) 171 of 2023 is disposed of.

Certified copy filed at the instance of the o.p./respondent/accused be retained with the record.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

(Tirthankar Ghosh, J.)