

24.04.2024

Sl. No.: 30

Court No.30

BM

CRR 3406 of 2022

Debasish Chowdhury

Vs.

Mr. Subhodip Mukherjee & Anr.

Ms. Priyakshi Banerjee

... for the petitioner

Mr. Arijit Ganguly

Mr. Bitasok Banerjee

... for the State

Ms. Sreyashee Biswas

Ms. Puja Goswami

... for the Kolkata Municipal Corporation

1. A report as called for has been placed by the State along with case diary.

2. From the case diary, it appears that the investigation in the present case has ended in **Final Report declaring the case as mistake of fact** and the accused has been discharged on 28.02.2022.

3. The present revisional application has been preferred against an order dated 1st April, 2022 passed by the learned 2nd Municipal Magistrate Court at Calcutta with respect of GR Case No.272 of 2021 (State vs. Debasish Chowdhury) arising out of Charu Market P.S Case No.97 dated 18.08.2020, wherein the learned Municipal Magistrate has been pleased to frame charge on, filing of the final report declaring the case as mistake of fact. No charge sheet was filed in the present case, but the learned Magistrate proceeded to frame charge vide the order under revision.

4. A report had been called for by this court through the learned Registrar General, wherein it appears that the present Magistrate has submitted a report stating that on the said date of order under

revision her predecessor Mr. Md. Ruknuddin was posted as Municipal Magistrate, 2nd Court, Calcutta.

5. This Court vide order dated 10.04.2024 had called for an explanation from **the concerned** Magistrate and not the present Magistrate.

6. Accordingly, the present revisional application is disposed of by setting aside the said order dated 1st April, 2022 passed by the learned 2nd Municipal Magistrate Court at Calcutta with respect of GR Case No.272 of 2021 (State vs. Debasish Chowdhury) arising out of Charu Market P.S Case No.97 dated 18.08.2020, considering the fact that the investigation ended in a FRT for mistake of fact. The proceeding accordingly stands dropped against the accused/petitioner herein who has already been discharged.

7. The revisional application being CRR 3406 of 2022 is accordingly, allowed.

8. All applications connected thereto stand disposed of.

9. Interim order, if any, stands vacated.

10. Let a copy of the order be sent to the learned trial court for compliance.

11. Urgent Xerox certified copies of this order, if applied for, shall be supplied to the learned counsel for the parties as expeditiously as possible, in compliance of usual formalities.

(Shampa Dutt (Paul), J.)