

25.11.2024

Sl. No.: 21

Court No.30
BM

CRR 3867 of 2023

Sima Tiwari

Vs.

The State of West Bengal & Ors.

Mr. Afreen Begum

Mr. Swastika Chowdhury

... for the petitioner

Mr. Arindam Sen

Mr. Sima Biswas

... for the State

Mr. Subrata Bhattacharyya

Mr. Suddhadev Adak

Ms. Shipra Santra

... for the opposite party no.1.

1. The present revisional application has been preferred against an order dated 25.07.2023 passed by the learned Additional Chief Judicial Magistrate, Durgapur, in connection with G.R No.738 of 2022 arising out of Durgapur Police Station Case No.184 of 2022 dated 28.04.2022 alleging commission of offences punishable under Sections 304/34 of the Indian Penal Code, 1860 thereby accepting the final report filed by the Investigating Officer and disposing of the instant case.

2. By the said order under revision the learned Additional Chief Judicial Magistrate, Durgapur, rejected the defacto complainant's adjournment petition. It is submitted by the learned counsel for the petitioner/defacto complainant that vide order dated 13.07.2023 the next date of filing of (naraji) protest petition was fixed on 29.08.2023 but subsequently the said date has been penned through and the date on which the order under revision was passed was fixed.

3. It is thus submitted that date has been preponed on 25.07.2023 and as such they were unable to file Naraji petition on a date prior to a date given vide order dated 13.07.2023(29.08.2023).

4. On hearing the parties, it appears that the said order has been penned through and it clearly shows that time was granted till 29.08.2023 for filing the protest petition but the said prayer for adjournment was rejected on the prior date. The said order has prima facie prejudiced the petitioner/defacto complainant and accordingly in the interest of justice it is required to be set aside.

5. Order dated 25.07.2023 is thus, set aside. The petitioner defacto complainant is granted liberty to file a Naraji petition within 15 days from the date of this order, which the learned Magistrate shall consider in accordance with law on giving an opportunity of hearing to all the stake holders.

6. The revisional application is thus disposed of.

7. All applications connected thereto stand disposed of.

8. Interim order, if any, stands vacated.

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

10. 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.)