

02.01.2024
Sl.No. 30
Ct. 32
Amalranjan

CRR 3608 of 2017

Tapan Kumar Ghorai alias Tapan Ghorai
Vs.
State of West Bengal and ors.

Nobody appears on behalf of either of the parties on call. Even on earlier occasions no one represented the petitioner, nor any accommodation sought for.

This matter pertains to the year 2017. According to the nature of prayer of the instant application and to avoid further delay, the record is taken up for disposal on merit.

The instant application has been filed by the petitioner under Section 482 read with section 401 of the Criminal Procedure Code, 1973, seeking quashing of the impugned order dated 7.09.2017 passed by the learned Additional Chief Judicial Magistrate, Ghatal, Paschim Medinipur in connection with Ghatal Police Station case no. 145 of 2016 dated 17.06.2016 (G.R. no. 404/2016) under sections 365, 366 and 34 of the Indian Penal Code, 1860.

The brief facts of the instant case are relevant for disposal of this case as follows.

The petitioner got married with one Rita Samanta, daughter of Boangshi Samanta and out of the said wed lock one female child was born, namely, Sneha Ghorai, who was 9 years old at the time of lodging complaint.

On 11.6.2016 at about 10 A.M. while travelling on a motor cycle along with the petitioner's wife they went together to a petrol pump located at Kushpata within the jurisdiction of Ghatal police station, where they met with the opposite party nos. 2 to 4 who were present there, prior to their coming at the said petrol pump. The opposite party no. 2 was known to the wife of the petitioner prior to her marriage. After seeing the opposite party nos. 2 to 4 standing there the wife of the petitioner started chatting with them while the petitioner went to market for some times leaving his wife there with the opposite party nos. 2 to 4. When he returning back there within a few minutes, he did not find his wife or any of the opposite party nos. 2 to 4 there in spite of his best effort as such he lodged a missing diary at Ghatal police station being GDE No. 969 dated 11.06.2016. Later the petitioner came to know from some local people that the opposite party nos. 2 to 4 took away his wife by influencing her in various manners in order to fulfill their mala fide intentions. At the time of occurring such incident, the wife of the petitioner was carrying 14-15 bhoris of gold ornaments along with a cash of Rs. 60,000/-. Those items are actually belonged to the petitioner herein

Upon such facts, a case was registered as Ghatal police station case no. 145 of 2016 dated 17.06.2016 (G.R. no. 404/2016) under sections 365, 366 and 34 of the Indian Penal Code, 1860 against the opposite party nos. 2 to 4.

After completion of investigation, I.O submitted final report being F.R.M.F. no. 168/2016 dated 30.8.2016 on the ground of “mistake of fact”.

Learned Chief Judicial Magistrate, Ghatal, Paschim Medinipur issued a notice on 5.5.2017 to the petitioner and upon hearing, the learned Magistrate vide an order dated 7.9.2017 accepted the F.R.M.F and dropped the case as well as the accused persons on C.B were discharged from their respective bail bonds. It is the allegation of the petitioner that investigating officer neither investigated the case properly nor examined witnesses.

Accordingly, the petitioner prays for further investigation. But without considering the case of the petitioner and materials available on record, the learned Magistrate has dropped the case. As such he constrains to file this application praying for quashing of the impugned order dated 7.9.2017.

Upon perusal of the report as well as considering the case of the petitioner and the impugned order dated 7.9.2017, this court finds after completion of investigation, the investigating officer has filed the FRMF 168/2016 dated 30.8.2016 stating the reasons as “mistake of fact”. The learned Magistrate given opportunity of hearing to the petitioner and also gone through the C.D as well as the statement of the victim girl recorded under section 164 Criminal Procedure Code, wherein she specifically stated before the learned Magistrate that due to torture by the

defacto- complainant she left her matrimonial home voluntarily and the accused persons did not kidnap her.

From her statement, it appears that she has exonerated the accused persons from the alleged offences. Accordingly, the learned Magistrate did not find any convincing materials or grounds made by the petitioner for passing order regarding reinvestigation/further investigation of the case as per prayer of the defacto-complainant.

I also do not find any substantive materials against the accused persons. Furthermore, the victim girl has also exonerated the accused persons from the alleged offences. As such this court do not find any infirmity or perversity in the order passed by the learned Chief Judicial Magistrate, Ghatal vide order dated 7.9.2017. Accordingly, the application is devoid of merit.

Hence, the instant revisional application being **CRR 3608 of 2017** is, thus, dismissed without any order as to costs.

Department is directed to send down the lower court records, if any, immediately.

Let the order be communicated to the Ld. Court below for information.

Liberty is granted to all parties to act in terms of the copy of this order downloaded from the official website of this court.

Urgent Photostat certified copy of this order, if applied
for, be supplied to the parties taking all legal formalities.

(Ajay Kumar Gupta, J.)