

February 20, 2024
AD-31
Ct. 34
SG

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION

CRR 4928 of 2023

In the matter of: Sri Satya Narayan Mali
... petitioner

Mr. Debasis Kar
... for the petitioner.

Mr. Jaydeep Biswas
... for the State.

Report submitted by the State be kept with the record.

Mr. Biswas, learned counsel for the State has produced the case diaries of Khardah Police Station Case Nos.593/17 dated 15.08.2017 as well as Khardah Police Station Case No.458/23 dated 15.07.2023.

The main thrust of contentions in the revisional application was that on similar set of facts and circumstances, the second FIR being Khardah Police Station Case No.458/23 dated 15.07.2023 has been registered for investigation.

I have perused the case diary of Khardah Police Station Case No.593/17 dated 15.08.2017 which is the earlier FIR and I find that in that case the investigating officer discharged the accused based on a statement of Ashok Kumar Mali wherein the contents reflect that he was not interested to pursue the case. The said investigation was not carried out to its logical conclusion on merits. Presently, the investigation of the case being Khardah

Police Station Case No.458/23 dated 15.07.2023 is under progress.

Having considered the foundation on which the quashing of the subsequent FIR has been placed before this Court, I am of the view that the same is not acceptable as the earlier case was not investigated and a report was submitted for discharging the accused.

The petitioner would be at liberty to canvass the issue after addressing on the grounds as to whether application under Section 173(8) of the Code or any notice was issued on the said Ashok Kumar Mali, which justified that the statement under Section 161 of the Code as was recorded could be the foundation for discharging the accused in respect of Khardah Police Station Case No.593/17 is correct or incorrect.

Accordingly, no interference is made in connection with the instant case at this stage.

The petitioner would be at liberty to approach this Court after the report under Section 173 of the Code is filed before the jurisdictional court.

With the aforesaid observations, CRR 4928 of 2023 is disposed of.

Pending application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent certified copy of this order, if applied for, be made available to the parties upon compliance of such requisite formalities.

(Tirthankar Ghosh, J.)