

03-01-2024
Subha
Item no. 25
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 4970 of 2023

Arpan Biswas.

-versus-

State of West Bengal and ors.

Mr. Ayan Bhattacharya
Mr. Suman Majumder
.....for the petitioner.

Mr. Md. Anwar Hossain
...for the State.

Mr. Bhattacharya, learned advocate appearing on behalf of the petitioner is aggrieved by the order dated December 18, 2023 passed by the court of the learned Additional Chief Judicial Magistrate, Bongaon in connection with Gaighata P. S Case No. 627 of 2023.

Petitioner is directed to serve a copy of the revisional application upon Mr. Md. Anwar Hossain, learned advocate who ordinarily appears on behalf of the State. His appointment may be regularized by the concerned Authorities in due course.

The grievance of the petitioner is that when the case was registered for investigation, there were certain sections which were in consonance with the allegations and the offences, but subsequently the police authorities dropped the said sections, although the chargesheet has not been submitted and the investigation is in progress.

The point which has been canvassed is that taking advantage of such a situation, the accused persons appeared, surrendered and were granted bail. The learned ACJM, Bongaon is absolutely correct to the extent that so far as the applicability of sections at the stage of investigation is concerned, the same is within the domain of the Investigating Agency and the role of the court will come only after the report under Section 173 of the Code of Criminal Procedure is filed before the court.

Having regard to the peculiar circumstance which has surfaced in the present case, I direct that the Additional Superintendent of Police/DSP/SDPO who is in charge of Gaighata Police Station will scrutinize the report under Section 173 of the Code of Criminal Procedure so far as the materials collected by the Investigating Agency is concerned and the sections of the Penal Code for which the accused persons have been charged prior to the same being filed before the learned ACJM, Bongaon.

Prior to such application of mind, if any documents or the materials are placed by the petitioner before the concerned superior officer, the superior officer at the time of such scrutiny or inspection of the report under Section 173 CrPC will take the same into account.

With the aforesaid observations, the revisional application being CRR 4970 of 2023 is disposed of.

Pending applications, if any, are consequently hereby disposed of.

Mr. Hossain, learned advocate for the State will intimate

the concerned superior officer in respect of the directions passed by this court.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]