

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION

CRR 445 of 2024

Sri Gobinda Mondal
Vs.
State of West Bengal & Ors.

Mr. Sandip Mondal
Mr. Abhilash Mittal

... For the petitioner

Mr. Nilay Chakraborty
Mr. Aniruddha Biswas

.... For the State

1. Challenging the order dated 25th September, 2024 passed by the learned Additional Chief Judicial Magistrate, Siliguri in Misc. Petition No. 54 of 2024 whereby the petitioner's prayer made under Section 156(3) of the Criminal Procedure Code, 1973 (in short, Cr.P.C.) which was registered as a petition under Section 175(3) of the Bharatia Nagarik Surakha Sanghita 2023 (in short the BNSS) was rejected, the instant application has been filed.
2. Mr. Mondal, learned advocate appearing in support of the instant application by drawing attention of this Court to the petition filed under Section 156(3) Cr.P.C. registered as under Section 175(3) of the BNSS would submit that despite there being a specific complaint that the petitioner/complainant had been forced to pay

a sum of Rs,44,000/- to the accused persons which amount according to the petitioner, had been extorted, the learned Magistrate had dropped the case though, in the facts the learned Magistrate empowered under Section 210 of the BNSS, having regard to the application filed under Section 173(4) of the BNSS ought to have directed the matter to be investigated into. He would submit that once a complaint disclosing cognizable offence is placed before the Magistrate, it is the obligation of the Magistrate to either direct the police authorities to register a case if the Magistrate is satisfied that the information discloses the commission of cognizable offence or to investigate the case himself. He would submit that elaborate procedure has been laid down in Section 173(4) and 175(3) of the BNSS, for the steps to be taken by the learned Magistrate. In the circumstance he seeks interference.

3. Mr. Chakraborty, learned Additional Public Prosecutor on the other hand would submit that admittedly in this case police report was called for on the basis of the petition filed under Section 175(3) of the BNSS. By placing the police report he would submit that during the enquiry, the police had been able to ascertain that on the basis of a family dispute the shutter of the tenanted shop room was closed, though there was some hot altercation between the brothers, however, at the intervention of the local Bazar Samity, the situation

was under control. Though, attempt was made to amicably resolve the issue, the complainant did not agree to negotiate the matter with the other family member. He would submit that since, the learned Magistrate did not find any material the proceedings were dropped.

4. Having heard the learned advocates appearing for the respective parties, I notice that the learned Magistrate had dropped the proceedings since, according to the learned Magistrate the report filed by the police did not corroborate or whisper about any life threatening attempt upon the petitioner though, the issue with regard to the extortion does not appear to be considered. Ordinarily, when a complaint is made under Section 173(4) of the BNSS, the Magistrate if he is satisfied that the information discloses commission of cognizable offence can either investigate the case himself or direct any investigation to be made by the police. Once an order is made for investigation under Section 173(4) of the BNSS, the police is required to investigate into the complaint.
5. Admittedly, in this case the complainant disclosing a case of extortion has been made which has, however, been overlooked by the learned Magistrate.
6. Having regard thereto, I am of the view that the order passed by the learned Magistrate on 25th September,

2024 cannot be sustained and the same is accordingly set aside.

7. The learned Magistrate is directed to cause a fresh enquiry in the matter and proceed accordingly.
8. With the above observations and directions the revisional application stands disposed of.
9. There shall be no order as to costs.
10. Urgent photostat certified copy of this order if applied for, be made available to the parties upon compliance with the necessary formalities.

(Raja Basu Chowdhury, J.)