

**CRR 1052 of 2022**

**M/s. Klystron Electronics Pvt. Ltd.  
Vs.  
The State of West Bengal**

|                          |                       |
|--------------------------|-----------------------|
| Mr. Pradyut Banerjee     |                       |
| Mr. Dhruvaraj Bhawmik    |                       |
| Mr. Ankit Misra          |                       |
| Mr. Suvendu Bhattacharya | ...for the Petitioner |
| Md. Anwar Hossain        | ...for the State      |

The petitioner is a company providing services of installation of various electrical instruments. It is submitted that for the purpose of aforesaid project, the petitioner company had kept various electrical goods and items including wires, cables, transformers etc. at the project site of WEBEL. On 26.12.2019, various valuable parts and accessories of electric transformers were allegedly stolen by unknown person from the aforesaid project site and for which, the petitioner lodged a general diary being G.D.E no. 882 dated 28.12.2019 with the concerned police station and also informed the same to the concerned Superintendent of Police, South 24 Parganas on 2.12.2021.

Petitioner initiated to lodge the FIR in connection with allegation of theft but in spite of petitioner's initiative, no FIR has been lodged by the police authority. Accordingly, the petitioner moved an application before the court below under Section 156(3) of the Code of Criminal Procedure with a prayer to make a direction upon the concerned police station to start investigation treating petition of complaint as FIR.

The court below by the impugned order, refused the prayer made by the petitioner and converted the said prayer to be treated as a complaint under Section 200 of the Code against unknown person and accordingly, he took cognizance of the offence as complaint case and transferred the said case to the Judicial Magistrate, 3<sup>rd</sup> Court, Diamond Harbour for disposal.

Being aggrieved by the said order, the petitioner submits that there was no occasion to convert the said prayer into a complaint since the alleged perpetrator could not be identified and the truth can only reveal by way of investigation.

I have considered the submissions made by the petitioner and also perused the report submitted by Inspector-in-charge, Ramnagar Police station, South 24 Parganas on 29<sup>th</sup> August, 2024. On perusal of the order impugned, it appears that the order is absolutely without any reason. He observed that considering the nature of allegation and backdrop of the instant petition, the petition of complaint should be treated as a complaint case instead of sending the same for investigation.

When the Application before Magistrate does not reveal name of any known or unknown person and petitioner/complainant has barely prayed or exercise of power under section 156(3) of Cr.P.C., it remains an Application only and would not be in the nature of a complaint.

In the instant case petitioner's specific case is that despite lodging of a complaint disclosing commission of a cognizable offence against unknown person, police officer refused to register a case. In a situation like this, Magistrate cannot take this petition filed under section 156(3) of Cr.P.C, as a complaint. In

fact Magistrate's power to direct investigation arises in two situations firstly where a first information report is refused to be lodged and secondly when the statutory power of investigation for some reason or other is not conducted. Above all, Magistrate before passing an order should apply his judicial mind. The mere statement that after going through the complaint, he passed the order as reflected in the impugned order, will not be sufficient.

CRR 1052 of 2022 thus stands allowed. The order impugned dated 10.12.2021, so far it relates to taking cognizance of offence thus stands quashed. The concerned Magistrate is directed to ask the Inspector-in-charge, Ramnagar Police station, South 24 Parganas for starting investigation by treating the petition of complaint filed by the petitioner herein on 30<sup>th</sup> March, 2022 as FIR and to submit a report before the court below within a reasonable period.

Urgent Photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

**(Dr. Ajoy Kumar Mukherjee, J.)**