

CRR 1814 of 2021

Ab

In Re:- An application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

and

In the matter of : **Arrkaprovo Neogi.**

...Petitioner.

**Mr. Tapash Kumar Ghosh,
Mr. Tanmoy Chowdhury.**

...For the petitioner.

**Mr. Rudradipta Nandy, Ld. APP,
Ms. Sanjana Saha.**

...For the State.

1. Learned Counsel for the petitioner has submitted that he was not satisfied with the investigation done by the first Investigating Officer of the relevant case and that is why a protest petition was filed before the learned Court of Chief Judicial Magistrate, Hooghly, praying for transferring the investigation to the Criminal Investigation Department of West Bengal.
2. The prayer of the de facto complainant was turned down by an order dated 2nd September, 2021 by the learned Chief Judicial Magistrate, Hooghly, in G.R. Case No.1010 of 2021. Challenging the said order, the instant revisional application has been filed with a prayer before this Court to transfer the investigation to the Criminal Investigation Department, West Bengal, otherwise the petitioner being the de facto complainant and the son of the victim would suffer irreparable loss and injury.
3. Learned Counsel for the State has submitted that by virtue of the order dated 2nd September, 2021 further investigation was started. He has also produced the case diary before this Court.

However, he has left the matter to the discretion of this Court so far as the prayer for transferring of the investigation of the case to the Criminal Investigating Department, West Bengal is concerned.

4. Learned Counsel for the petitioner has further submitted that the order dated 2nd September, 2021 was passed by the learned Chief Judicial Magistrate, Hooghly, on the understanding that the said Court had no authority to transfer the investigation to the Criminal Investigation Department, West Bengal.
5. I have considered the materials on record and the case diary. It appears that in the First Information Report dated 11th May, 2021 though the de facto complainant specifically named Shib Das, Swagata Mukherjee (Banti), Ashim Malakar, Mintu Manna and Biki Mahato as other assailants, but the relevant charge-sheet filed on 9th July, 2021 shows that they were not sent up for trial.
6. However, from the statement of the victim recorded under Section 161 of the Code of Criminal Procedure dated 19th May, 2021 shows that he did not name those persons before the Investigating Officer.
7. It is, therefore, rightly held by the learned Chief Judicial Magistrate, Hooghly that he has no jurisdiction under law to transfer the investigation to the Criminal Investigation Department and, accordingly, he has refused to allow the prayer of the de facto complainant. However, from the record it transpires that further investigation was allowed to be conducted by an Officer in the rank of Inspector of Police and, accordingly, further investigation was started. It is also found from the material that after completion of the said further investigation, charge-sheet has already been submitted. It appears that the relevant dispute is between two factions of a political party. However, as the further investigation as per the order of the learned Chief Judicial Magistrate was completed, I do not find any necessity to allow the prayer of the petitioner at this stage.
8. Accordingly, the revisional application stands disposed of on contest. No costs. Interim order, if any, stands vacated.

9. Urgent certified copy of this order, if applied for, shall be given to the parties upon compliance of all necessary formalities.

(Apurba Sinha Ray, J.)