

Item 16.07.
No. 2025
04

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Ct 32 CRR 5355 of 2024

rup Madhuri Banerjee & Ors.
Vs.
The State of West Bengal & Anr.

Mr. Kalyan Kumar Chakraborty,
Mr. Gopal Krishna Sarkar. ... for the petitioner.

Mr. Arijit Ganguly,
Mrs. Debjani Sahu. ... for the State.

Mr. Jayanta Narayan Chatterjee, Sr. Adv.
Mr. Supreem Naskar,
Ms. Jayashree Patra
Ms. Ritushree Banerjee,
Mr. Bhaskar Mondal. ... for the O.P. No.2.

1. All the learned counsel appearing on behalf of the parties to this revisional application are present.
2. All the parties are ad idem of the fact that in this case a complaint was lodged under Section 156(3) of the Cr. P.C. (Section 175(3) of BNSS) which lacks compliance of Section 154(1) and 154(3) of the Cr. P.C. [Section 173(1) and 173(4) of BNSS].
3. It is also admitted that according to ratio of **Priyanka Srivastava Versus State of UP** reported in **(2015) 6 SCC 287**, it is clear that in order to attach the propriety and genuineness to the application preferred under Section 156(3) of Cr. P.C. [Section 175(3) of BNSS], it ought to be supported with an affidavit so as to justify

the set of allegations, which has been leveled against the person against whom the application has been moved, so that the sanctity in relation to set of allegations leveled may be tested by the Courts while entertaining the application under 156(3) of Cr. P.C. [Section 175(3) of BNSS] and the responsibilities of its veracity and genuineness of the allegations complained of can be harnessed upon the person, who is filing an application for registration of an FIR as against the accused persons.

4. Learned counsel appearing on behalf of the opposite party no.2 has relied on a case of **Ranjit Singh Bath & Anr. versus Union Territory Chandigar & Anr.** in connection with **Criminal Appeal No(s) 4313 of 2024**, wherein Hon'ble Apex Court gave a liberty to the 2nd respondent, who did not exhaust the remedies available under sub-section 1 and 3 of Section 154 of Cr. P.C. to take recourse to the remedies under Section 154 Cr. P.C. in accordance with law.
5. In support of this contention learned counsel appearing on behalf of the opposite party no.2 has further relied on a case of **Commercial Toyota through its General Manager Sales Sri Abhinav Khosla Versus State of Uttarakhand and Anr.** reported in **2019 SCC Online Utt 749**, wherein Hon'ble Court held that learned concerned Magistrate is responsible for non-compliance of the mandatory direction laid down in Priyanka Srivastava (supra).

6. Considering all facts and circumstances discussed hereinabove, in the case at hand complainant admittedly did not comply with the direction of the Hon'ble Apex Court laid down in Priyanka Srivastava (supra). Thereby not complying with the provisions of Section 154 (1) and 154(3) of Cr. P.C. [Section 173(1) and 173(4) of BNSS] before filing the application under Section 156 (3) of Cr. P.C. [Section 175(3) of BNSS], which in turn was also taken into consideration by the Learned Magistrate.
7. In that view of the matter, the revisional application stands allowed.
8. The proceeding in connection with G.R. Case No. 217 of 2019 corresponding to Asansol Women Police Station Case No.12 of 2019 dated 01.02.2019 under Sections 406/506/34 of the Indian Penal Code stands quashed with liberty to the de facto complainant/opposite party no.2 herein to take recourse to the remedies under Section 154 of Cr.P.C. prior to filing application under Section 156(3) Cr. P.C. [Section 175(3) BNSS].
9. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.
10. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Bibhas Ranjan De, J.)