

03 18.06.2026
SM Ct. No.42

CRR 2379 of 2017

Biswanath Ghosh
Vs.
The State of West Bengal & Anr.

Mr. Sankar Paul
Mr. Imtiaz ahamed

... ... for the private respondent no.2

1. When the matter was called on for hearing, none appeared on behalf of the petitioner. It is a matter of record that this revisional application challenges the order dated 31st January, 2017, passed by the Learned Chief Judicial Magistrate, Tamluk, Purba Medinipur, in G.R. Case No. 1326 of 2013, arising from offences punishable under Sections 323, 325, and 379 of the Indian Penal Code (IPC), read with Section 28 of the Arms Act and Section 11(1)(a) of the Prevention of Cruelty to Animals Act, 1960.
2. This matter has been pending before this Court for over nine years. Despite being listed on numerous occasions and granted sufficient opportunities to prosecute his cause, the petitioner has remained persistently absent. Given the vintage of this litigation and the consistent failure of the petitioner to represent his case, this Court finds it neither feasible nor in the interest of justice to keep this matter pending any longer. Accordingly, the

Court proceeds to dispose of the matter on its merits based on the materials available on record.

3. The petitioner, who is the *de facto* complainant in the underlying criminal case, had sought a direction for “further investigation” before the Learned Magistrate. His grievance was that the Investigating Officer, in the charge sheet submitted on 30.12.2016, arraigned only Sasadhar Maity as an accused, while excluding other individuals named in the F.I.R. By the impugned order dated 31.01.2017, the Learned Magistrate rejected the prayer for further investigation. The petitioner challenges this order, seeking a comprehensive investigation into the roles of the excluded persons.
4. The core issue for determination is the scope of a Magistrate’s power to intervene in the investigative process. Under the Code of Criminal Procedure, the police possess the statutory right to investigate an offence and determine, based on the evidence collected, who should be sent to trial. While a Magistrate has the power under Section 173(8) of the Cr.P.C. to order further investigation, this power is not intended to be a routine check on police discretion whenever a complainant is dissatisfied with the list of accused persons.
5. If the police have excluded certain individuals from the charge sheet due to a lack of evidence, the Magistrate is not bound to order further investigation unless there is a

clear showing of *mala fides* or a failure to investigate a crucial lead. In this case, the petitioner's remedy is not to stall the trial through repeated revisions, but to await the trial process.

6. Under Section 319 of the Cr.P.C., if during the course of the trial evidence emerges pointing to the involvement of the excluded individuals, the Magistrate retains the power to summon them as additional accused. The order passed by the Learned Magistrate on 31.01.2017 reflects a proper application of judicial mind, as the Court found no compelling reason to direct further investigation at that stage. This Court finds that the impugned order is well-reasoned and consistent with the principles governing the criminal trial process; to grant the prayer for further investigation at this belated stage would serve only to unnecessarily delay the trial of the accused who has already been charge-sheeted.
7. In view of the aforesaid discussion, the instant application, being C.R.R. No. 2379 of 2017, is hereby dismissed.
8. The Learned Trial Court is directed to proceed with the trial of G.R. Case No. 1326 of 2013 expeditiously.
9. The petitioner, as the *de facto* complainant, shall be at liberty to pursue his remedies, including applications under Section 319 of the Cr.P.C., as and when evidence is led during the trial.
10. There is no order as to costs.

11. Interim order/s, if any, is/are hereby vacated.
12. All parties shall act on the server copy of this order
duly downloaded from the official website of this Court.
13. Urgent certified website copy of this order, if applied
for, be supplied to the parties upon compliance with all
requisite formalities.

(Uday Kumar, J.)