

CRR 3431 of 2017

**Reba Mondal
Vs.
The State of West Bengal & Ors.**

1. When the matter is called on for hearing, there is no appearance on behalf of the petitioner.
2. This revisional application, challenging the order dated 20th July, 2017 passed by the learned Additional Chief Judicial Magistrate, Uluberia, Howrah has been pending before this Court for over nine years.
3. Despite being listed on multiple occasions, the petitioner has failed to prosecute the matter. Accordingly, this Court proceeds to dispose of the application on its merits based on the materials available on record.
4. The petitioner is the *de facto* complainant in G.R. Case No. 2140 of 2016, arising out of Shyampur P.S. Case No. 354 of 2016. Following an investigation, the police submitted a charge sheet against Monoranjan Jana and Mihir Mondal, effectively excluding seven other F.I.R.-named accused persons. The petitioner filed an application before the Learned ACJM, Uluberia, Howrah, under Section 173(8) of the Code of Criminal Procedure (Cr.P.C.), praying for further investigation on the grounds that the police investigation was perfunctory, lacked site visits, failed to recover stolen items, and ignored the statements of the complainant. By the impugned order dated 20th July, 2017, the Learned Magistrate rejected this prayer.

5. The core legal issue is whether a Magistrate is bound to order further investigation merely because a complainant is dissatisfied with the final police report. It is a well-settled principle of criminal jurisprudence that the investigating agency holds the statutory discretion to form an opinion based on the evidence collected. While a Magistrate has the power under Section 173(8) of the Cr.P.C. to direct further investigation, this power is discretionary and is typically exercised only when the Magistrate finds the investigation to be manifestly biased, incomplete, or when vital leads have been ignored in a manner that shocks the judicial conscience.
6. In the present case, all allegations of the petitioner, that the investigation was mere "table work," the crime scene was not visited, and evidence was ignored, are questions of fact that remain to be tested during the trial. The law provides sufficient remedies to a complainant, who may highlight the insufficiency of evidence to the trial court during the framing of charges. Furthermore, if evidence surfaces during the trial implicating the excluded individuals, the trial court is empowered under Section 319 of the Cr.P.C. to summon them as additional accused. Deficiencies in the investigation can also be brought to light through the robust cross-examination of the investigating officer.
7. The Learned Magistrate, having perused the materials, exercised sound judicial discretion in refusing to interfere with the police report at this pre-trial stage. I find no jurisdictional error, grave impropriety, or perversity in the impugned order dated 20th July,

2017, that would warrant interference under the revisional jurisdiction of this Court.

8. The application is an attempt to influence the course of a specialized police investigation, which is not the intended scope of Section 173(8) of the Cr.P.C. in the absence of manifest illegality.
9. In view of the aforesaid discussions, the instant revisional application being C.R.R. No. 3431 of 2017 is hereby dismissed.
10. Learned trial court is directed to proceed with the trial of G.R. Case No. 2140 of 2016 with due expedition.
11. The complainant shall be at liberty to pursue all available legal remedies including application under section 319 of the Cr.P.C. as and when evidence surfaces during the trial.
12. Interim order, if subsisting, stands vacated.
13. Photostat copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)