

**CRIMINAL REVISION**

C.R. R. No. 3149 of 2009

*Present :The Hon'ble Mr. Justice Prasenjit Mandal*

Judgement On: June 15, 2010.

**Smt. Kiran Singh****Versus****State of West Bengal & ors.****POINTS**

QUASHING - Additional Chief Judicial Magistrate, issued notice upon the de-facto complainant before acceptance of the final report – The de-facto complainant was absent – So in absence of the de-facto complainant, upon perusal of the C.D., the learned Additional Chief Judicial Magistrate, Durgapur accepted the final report and discharged the accused persons from the case – Whether Findings of Learned Additional Chief Judicial Magistrate was correct in accordance with law – Code of Criminal Procedure 1973, S 482.

**FACTS**

The fact of the case is that the petitioner filed a petition of complaint before the learned Additional Chief Judicial Magistrate, Durgapur seeking reliefs for sending the same to the concerned p.s. for investigation. Accordingly, the learned Additional Chief Judicial Magistrate, Durgapur sent the same to the Coke-Oven P.S. for treating the petition of complaint as First Information Report. That case was numbered as 3 of 2008 dated 05.01.2008 under Section 323/325/354/379/506/120(B) read with 34 of the I.P.C. After thorough investigation, the I.O.

submitted a Final Report praying for acceptance of the same. Upon getting the same the learned Additional Chief Judicial Magistrate, Durgapur issued notice upon the de-facto complainant. Thereafter, on perusal of the C.D. the Final Report was accepted and the accused persons were released. Now the grievance of the petitioner is that no reason has been assigned in accepting the Final Report.

**HELD**

The learned Additional Chief Judicial Magistrate, Durgapur issued notice upon the de-facto complainant before acceptance of the final report. There is no indication that the de-facto complainant was present. But the fact remains that she was absent. So in absence of the de-facto complainant, upon perusal of the C.D., the learned Additional Chief Judicial Magistrate, Durgapur accepted the final report. and discharged the accused persons from the case. As notice was duly served upon the petitioner before acceptance of the final report, there is no justification to reopen the matter. Therefore, this application has no merit at all.

Para 3

For the petitioner: Mr. Praloy Bhattacharjee.

For the State: Mr. Kashem Ali Ahmed.

For O.P. Nos.2 to 5: Mr. Ajoy Debnath.

**Prasenjit Mandal, J.:**

**THE COURT.**1.This application under Section 482 of the Code of Criminal Procedure, 1973 has been filed against the Final Report no.3 of 2008 dated 29.02.2008 submitted by the Coke-Oven police station over the Police Station Case No.3/08 dated 05.01.2008.

2.The fact of the case is that the petitioner filed a petition of complaint before the learned Additional Chief Judicial Magistrate, Durgapur seeking reliefs for sending the same to the concerned p.s. for investigation. Accordingly, the learned Additional Chief Judicial Magistrate, Durgapur sent the same to the Coke-Oven P.S. for treating the petition of complaint as First Information Report. That case was numbered as 3 of 2008 dated 05.01.2008 under Section 323/325/354/379/506/120(B) read with 34 of the I.P.C. After thorough investigation, the I.O. submitted a Final Report praying for acceptance of the same. Upon getting the same the learned Additional Chief Judicial Magistrate, Durgapur issued notice upon the de-facto complainant. Thereafter, on perusal of the C.D. the Final Report was accepted and the accused persons were released. Now the grievance of the petitioner is that no reason has been assigned in accepting the Final Report.

3.Having considered the submission of the learned Advocate for the parties and the materials on record, I find that the learned Additional Chief Judicial Magistrate, Durgapur issued notice upon the de-facto complainant before acceptance of the final report. There is no indication that the de-facto complainant was present. But the fact remains that she was absent. So in absence of the de-facto complainant, upon perusal of the C.D., the learned Additional Chief Judicial Magistrate, Durgapur accepted the final report. and discharged the accused persons from the case.

As notice was duly served upon the petitioner before acceptance of the final report, I find no justification to reopen the matter. Therefore, this application has no merit at all.

4. Accordingly, the application is dismissed.

5. Considering the circumstances, there will be no order as to costs.

6. Urgent xerox certified copy of this order, if applied for, be supplied to the learned Advocates for the parties on their usual undertaking.

**(Prasenjit Mandal, J.)**