

CRIMINAL REVISION

PRESENT :THE HON'BLE MR. JUSTICE PRASENJIT MANDAL

C.R.R. No.423 of 2009

Judgement On: June 15, 2010.

Sri Tripurati Roy

Versus

State of West Bengal & Anr.

POINTS

NARIJI PETITION – FINAL REPORT – Learned Magistrate did not discuss at all why he has accepted the Final Report – Objection raised by the de-facto complainant has not been discussed at all or why the said objection is not acceptable – Whether findings of the Learned Magistrate was correct in accordance with law – Code of Criminal Procedure, 1973 – S 401 , S 482 , S 156(3)

FACTS

The petitioner is the de-facto complainant of the said P.S. Case No.27 dated 14.02.2006. He filed one petition of complaint before the learned Chief Judicial Magistrate, Paschim Medinipur and that petition of complaint was forwarded to the concerned P.S. by the learned Magistrate under Section 156 (3) of the Code of Criminal Procedure for investigation. Accordingly, police investigated into the case. But after investigation, the police came to a conclusion that there is no material to proceed against the accused persons mentioned in the petition of complaint and accordingly filed a Final Report praying for discharge of the accused persons. Being aggrieved by the acceptance of

the Final Report by the concerned Magistrate, the de-facto complainant has preferred this application.

HELD

The learned Magistrate did not discuss at all why he has accepted the Final Report. No reason has been assigned. Even the objection raised by the de-facto complainant has not been discussed at all or why the said objection is not acceptable. Thus, it is found that the impugned order is perverse and it cannot be supported at all. It is, therefore, set aside with direction upon the learned Magistrate to hear the Naraji petition again in presence of the parties to the case in accordance with law. Thereafter, he shall pass a reasoned order in support of his conclusion. Such exercise must be completed by the learned Magistrate within one month from the date of communication of this order.

Para 4

For the petitioner: Mr. Suman De.

For the Opposite parties: None appears.

Prasenjit Mandal, J:

THE COURT. 1.This application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 has been preferred against the orders dated 23.09.2008 passed by the learned Judicial Magistrate, Paschim Medinipur in G.R. Case No.208 of 2006 thereby accepting the Final Report submitted by the I.O. in the Kotowali P.S. Case No.27 dated 14.02.2006 under Sections 255/260/406/417/468/473 of the I.P.C.

2.The petitioner is the de-facto complainant of the said P.S. Case No.27 dated 14.02.2006. He filed one petition of complaint before the learned Chief Judicial Magistrate, Paschim Medinipur and that petition of complaint was forwarded to the concerned P.S. by the learned Magistrate under Section 156 (3) of the Code of Criminal Procedure for investigation. Accordingly, police investigated into the case. But after investigation, the police came to a conclusion that there is no material to proceed against the accused persons mentioned in the petition of complaint and accordingly filed a Final Report praying for discharge of the accused persons. Being aggrieved by the acceptance of the Final Report by the concerned Magistrate, the de-facto complainant has preferred this application.

3.Having considered the submission of the learned Advocate for the petitioner and on perusal of the materials on record, I find that the petition of complaint forwarded by the learned C.J.M. to the Kotowali P.S. culminated in Final Report after investigation. Before acceptance of such report, the learned Magistrate issued notice upon the de-facto complainant. Then on September 23, 2008, the learned Magistrate passed the impugned order in the following manner:-

“Record is put up today. Today is fixed for hearing as per order dt.25.8.08 against the I.O.’s prayer. Perused the C.D. None defacto complainant. The F.R.T. is accepted.”

4.The fact remains that when the learned Magistrate received the Final Report, he issued notice upon the de-facto complainant and thereafter the de-facto complainant submitted one written objection (Naraji petition) as appearing as Annexure – E to the petition at page no.26. But on surprise, I find that the learned Magistrate did not discuss at all why he has accepted the Final Report. No reason has been assigned. Even the objection raised by the de-facto complainant has not been discussed at all or why the said objection is not acceptable. Thus, I find that the impugned

order is perverse and it cannot be supported at all. It is, therefore, set aside with direction upon the learned Magistrate to hear the Naraji petition again in presence of the parties to the case in accordance with law. Thereafter, he shall pass a reasoned order in support of his conclusion. Such exercise must be completed by the learned Magistrate within one month from the date of communication of this order.

5. With the above order, this application is disposed of.

6. There will be no order as to costs.

7. 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.)