

Order No.26
05-10-2024

Today is fixed for report from the Ld.Special PP as well as I/C Rampurhat regarding non submission of final report before the court, in the perspective of an explanation furnished by the I.O on the previous date (02-09-2024).

Ld. Special PP is present and files hazira.

A report is received from the I/C Rampurhat P.S in compliance with order dated 02-09-2024. A report is also received from the Ld. Special PP regarding the issues set out in the order dated 02-09-2024.

Perused the same as well as other materials on record.

Heard the Ld. Special PP.

Ld. Special PP has submitted a report stating that he had received an incomplete case docket containing page nos. 1 to 115, which was signed by the I.O. It is the further contention of the report that in page no.117 there was some correction made by the I.O, without his signature being attested on the concerned correction. It is further asserted in the report submitted by Ld. Special PP that the A-Form submitted by the I.O also contains a number of correction, without any signature endorsing genuinity of the said corrections having been made by the I.O. In fact, the report of the Ld. Special PP would also suggest that the page no.115 of the case docket was struck off and was corrected in the form of page no.117. The Ld. Special PP also stated that while he did received the case docket and endorsed his signature as received thereof he did not receive the charge sheet and neither is the I.O supposed to submit the charge sheet through the prosecutor. Last but not least, the Ld. PP has stated that the entire fault in this regard, resulting in a belated submission of the charge sheet is due to the ignorance and mischief commit on the part of the I.O. Be that as it may, the Ld. Special PP has prayed for condonation on the part of the prosecution.

Special (POCSO) Case No.17 of 2022 arose from Rampurhat P.S Case No.39 of 2022 dated 15-07-2022 under Section 363 of the IPC read with Section 4 of the POCSO Act. Considering the serious nature of the allegations against the accused person, he was not granted bail by this court. Eventually, the accused person was enlarged on bail by the Hon'ble Court vide order dated 16-11-2022 passed in CRM (DB) 3983 of 2022.

Thereafter, the case record continued to be fixed for submission of Police report in terms of Section 173 of Cr.P.C, till it was noticed by this court on 21-05-2024 that such report had not yet been furnished by the I.O. In fact the concerned order demonstrate that the C.D had not been produced before the court for a significant period, probably since the accused was already on bail. The I.O was directed to personally appear before the court on 26-06-2024 and submit details regarding progress of investigation of this case. On 26-06-2024, the I.O was present and filed a report stating that he had handed over the original case docket along with the charge sheet to the Ld. Special PP on 18-10-2022, who had acknowledged receipt of the same by putting his signature on the challan. However, the Ld. Special PP was found absent without step on 26-06-2024 and neither is the police report made part of the case record. A report by the office also left no doubt in the mind of the court that no such charge sheet has been received by this office.

Since the I.O was then posted at Dubrajpur P.S, he was exempted from appearing before the court on the next dated (28-06-2024). On the said date, the Ld. Special PP submitted before the court that he had in fact, received the original case docket from the I.O on 18-10-2022, but not the original charge sheet which ought to be submitted by the I.O himself before the court. It was mentioned in the order dated 28-06-2024 that the record was fixed for submission of I.O's report on 14-11-2022, 28-11-2022, 18-01-2023, 13-03-2023, 21-04-2023, 07-06-2023, 19-07-2023, 12-10-2023, 10-01-2024 and 19-01-2024, but the attention of the court was not drawn by the Ld. Special PP towards the fact that the original C.D was in his custody during this period, or that the investigation has already concluded and a portion of the charge sheet features in his case docket.

Having said that, the charge sheet had not been submitted before the court even on 28-06-2024, due to which the I.O was again directed to personally appear before the court and explain why the charge sheet had not been submitted before the court immediately upon completion of investigation. On the next dated (25-07-2024), Ld. Special PP again absent on call. The I.O was also not found present before the court. The case was adjourned to 08-08-2024 and even on such date, the I.O was not present before the court.

Finally on 02-09-2024, the I.O filed final report in terms of Section 173 of Cr.P.C being charge sheet no. 529 of 2022 dated 17-10-2022 u/s 363 of the IPC read with Section 4 of the POCSO Act. Conspicuously, the said final report did bear the date signature of the I.O but the date below the signature of the I.C Rampurhat on the said final report was conspicuous by its absence. The I.O submitted a hand written explanation on 02-09-2024, stating that he had submitted the complete case docket, comprising of 117 pages, along with the charge sheet at Rampurhat P.S, for submission of the said before the court. The I.O further stated in his explanation that the Rampurhat P.S inadvertently submitted the charge sheet before the Ld. Special PP, along with the case docket and not before the court. He further stated that he was unaware of any such happening and he was subsequently transferred to Dubrajpur P.S. The I.O acknowledged responsibility for the chaos, stating that it was mistaken on his part, which took place due to lack of information. Accordingly, he tendered unconditional apology before the court.

It was crystal clear from the report of the I.O that the charge sheet has not been submitted before this court before 02-09-2024. While the took responsibility for the non submission of charge sheet before the court, he blamed Rampurhat P.S for handing over the charge-sheet to the Ld. Special PP and not submitting the same before the court.

The I.C Rampurhat has, on this day submitted a report, categorically stating that the I.O of this case, S.I Amitava Pal had handed over the original case diary along with the report in final form comprising of 117 pages, to the Ld. Special PP under POCSO Act, for the same to be submitted before the court. He has also furnished a copy of the complete C.D challan, bearing acknowledgment of the Ld. Special PP as well as a true copy of the charge-sheet in question, that was supposedly despatched on 17-10-2022.

The accused has already been granted bail. Even otherwise, had he been in custody, the court would have been constrained to grant bail to the accused person in terms of Section 167(2) of the Cr.P.C, since the charge-sheet was not submitted before the court within due time. While the person concerned with this fiasco may indulge in blame game, each shifting the buck to the other, it is indeed unfortunate that even in respect of a case under Section 4 of the POCSO Act, which is a very serious offence, the charge-sheet would not have been submitted before the court had the court itself not found out on 21-05-2024 that the I.O report is pending since last 20 months.

Under Section 173 of the Cr.P.C, the police must file charge-sheet within 60 days from the date of arrest of the accused, if they are in custody and if the accused is not in custody, the time limit is generally 90 days. When the charge-sheet is not filed within the statutory period, the accused is entitled to default bail. The same demonstrates how essential it is for the investigating officer to submit charge-sheet within due time. It is needless to mention herein that everybody concerned is in some way responsible for this mess. It is an absolute travesty that the I.O does not care to submit the charge-sheet before the court in person. Equally, the P.S, having knowledge that the charge-sheet has been submitted with them, does not bother to directly submit the same before the court and instead, allegedly hands over the same to the Ld. Special PP. So far as the Ld. Special PP himself is concerned, he acknowledges receipt of the C.D, though an year and half after he originally should have. Thus, in respect of all concerned, this court can only say that the less said, the better.

Be that as it may, this court cannot ignore one thing. The I.O has stated that he had submitted the charge-sheet along with the C.D to the P.S. The P.S has stated that they had handed over the charge-sheet along with the C.D to Ld. Special PP.

Special Case No. 17 of 2022 (POCSO) (CIS NO.17 of 2022)
CNR NO.WBBB05-000580-2022

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The Ld. Special PP has stated in his report that he only received the C.D and not the charge-sheet itself. However, the I.O did submit the original submit on 02-09-2024 before the court. Consequently, it is imperative for the court to ascertain the whereabouts of the original charge-sheet in between 17-10-2022 and 02-09-2024. In fact, since the version of the three concerned parties greatly vary from one and other, this court is beginning to doubt, whether the charge-sheet submitted by the I.O before this court on 02-09-2024 is in fact the original charge-sheet in connection with this case, or not. As stated in the previous order cognizance has not yet been taken in respect of the offence invoked against the accused person and I refrain from taking cognizance, before obtaining a report in this regard from the SDPO, Rampurhat.

The SDPO, Rampurhat, who also happens to be the Nodal Officer for monitoring of trial of all cases within his jurisdiction, is to cause an inquiry in this regard and furnish a report before the court, positively on the next date.

Let a copy of this order be sent to the SDPO, Rampurhat for compliance.

Fix 12-11-2024 for report by the SDPO, Rampurhat.

To date for appearance of the accused person.

(Dictated & corrected by me)

Sd/- S.R.Chowdhury
Judge, Special Court (POCSO)
Rampurhat, Birbhum
J.O Code No. WB00885

Sd/- S.R.Chowdhury
Judge, Special Court (POCSO)
Rampurhat, Birbhum
J.O Code No. WB00885

Memo No.

Dated:

Copy forwarded to :

1. The SDPO, Rampurhat Sub-Division for compliance.

Judge, Special Court (POCSO)
Rampurhat, Birbhum