

20.04.2018

Today is fixed for passing of order on a petition filed by the accused person praying for discharge under Section 245 Cr.P.C on the ground of non maintainability.

Three accused persons are present by filing hazira and one is absent by petition under Section 317 Cr.P.C.

Ld. APP Is present along with two witnesses namely Anima Ghosh and Gopal Chandra Mondal.

Record is taken up for passing of the order.

The accused persons have prayed for discharge on the ground that the FIR lodged by the complainant is false and motivated. That the charge sheet filed in this case is stereotype and that this case is a concocted case and therefore not maintainable.

Now this is a Magistrate triable warrant case instituted on a police report and therefore the prayer for discharge under Section 245 Cr.P.C by the accused persons is not at all tenable in law. Section 245 Cr.P.C. is applicable in Magistrate triable cases instituted otherwise than on police report.

Here in this case charge sheet was filed and cognizance taken by ld. ACJM Asansol on 15.06.2015 and thereafter transferred to this court for trial and disposal.

As it has been held by the Apex Court at the time of framing of charge the Court has to rely prima facie upon the police report and any other document produced by the prosecution and cannot get into the merits of the case. Therefore I find no merit in the petition for discharge and the same is rejected.

Fix 10.12.2018 for evidence.

Issue fresh summons upon CSW 1 and 2.

Dictated and Corrected by me

Judicial Magistrate, 3<sup>rd</sup> Court  
Asansol

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