

GR 1907/2020
CIS 166/2022
J.O. CODE : WB01250

Order dated:
21-02-2024

Today the date is fixed for hearing of the petition dated 27.07.2022, if any and order and production of CD.

The defacto complainant namely Sk. Jane Alam is present.

The accused persons namely Malay Jana and Nirmal Kapat are present by filing hazira.

Ld. Advocates for the Defacto complainant and the accused are present.

Ld. APP is present.

CD is produced.

The record is taken up for hearing of the petition dated 27.07.2022 and passing order.

Heard the submissions on length placed by all the sides.

Perused the materials on record and CD with the petition.

It transpires from the petition dated 27.07.2022 filed by the defacto complainant that this applicant filed this case against the accused persons and the same was registered vide FIR no. 319 dated 25.10.2020 u/S. 406/420/323/506/34 of IPC. After registering this case, this applicant visited the PS and handed over all relevant documents pertaining to this case to the investigating officer for proper investigation and also co-operated with the I.O. But subsequently, the investigating officer never informed about the result of the investigation and this applicant came to know in the June, 2022 after searching from this Court that the investigation has already been completed and charge sheet has been submitted vide Shyampur PS CS no. 402/21 dated 31.12.2021 u/S. 341/323/506/34 of IPC. Ld. Additional Chief Judicial Magistrate, Uluberia has already taken cognizance of the matter and transferred this case to this Court for proper adjudication. The investigating officer has submitted charge sheet after deleting some sections without assigning proper reasons in his report and the report of the investigating officer is not satisfactory and as such this applicant has prayed for further investigation of this case.

Ld. Advocate appearing for the accused has submitted that the investigation has been properly done by the investigating officer as all the relevant documents as alleged by the complainant have been seized but no matters regarding the provisions of 406/420 of IPC has been made out. Further, it has been placed that this case was transferred for adjudication after taking cognizance and the complainant failed to avail the opportunity to raise his voice within the stipulated time even after knowing about the result of the investigation. The complainant filed this application for further investigation relating to the documents handed over to the IO without any substance of the same. Hence, he has prayed for refusal of the this application.

Ld. APP agrees with the submission and contention of the defacto complainant and asserted that even after handing over all documents, there is no whisper in the final report regarding investigation of those documents and also there is no notice in the CD served upon the complainant against the result of the investigation before submission of final report.

Having heard the submission and perusing the materials on record and the CD, it transpires to the Court that the investigating officer seized some documents against the alleged offence of sections 406/420 of IPC. But it is fact

that there is no whisper in the charge sheet whether any offence has been committed u/S. 406/420 of IPC. It is also a fact that there is no whisper in the final report that actually notice was served upon the complainant regarding the result of the investigation before submission of charge sheet. So, it can be presumed that no notice was served upon the complainant before submission of Final Report. Accordingly, the complainant was in dark about the fate of the investigation. As such he has come in clean hand and raised his grievance.

After careful perusal and discussion, this Court is of the opinion that further investigation is required to unfold the actual facts of this case.

Hence, the petition dated 27.07.2022 stands allowed on contest without any order as to cost.

O/C, Shyampur PS is directed to cause further investigation of this case with direction upon both the complainant and the accused to assist the investigating officer of this case.

O/C, Shyampur PS is further directed to complete the investigation and submit final report within one months from the date of receiving this order.

Let a copy of this order be sent to O/C Shyampur PS for information, taking necessary action and strict compliance of the direction of this Court.

CD be returned. BC-II to comply.

Fix 18-04-2024 for final report.

D/C by me.

Sd/-
J.M. 2nd Court, Uluberia

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