



জেলা আদালত, দক্ষিণ-২৪ পরগনা

District Court, South-24 Parganas

सत्यमेव जयते

Presided over by: Subhra Som Ghosal

J.O Code No: WB00984

CNR No: WBSP01-015547-2021

Special Case No: 49 of 2021

Order No. 17 dated: 28-02-2024.

The de facto complainant is present by filing hazira.

As stipulated by the previous order today is fixed for passing of order in respect of the Narazi petition filed by the de facto complainant.

On call the learned advocate for the de facto complainant and the Ld. Public Prosecutor-in-charge are found to be present.

During the course of hearing the learned advocate for the de facto complainant submitted that from the charge-sheet i.e. report as per section 173 of the Code of Criminal Procedure, 1973 itself the fallacy of the investigation can be deciphered and hence the case may be sent for further investigation. Maintaining on this; it was argued by the Ld. Advocate for the de facto complainant that from the FIR itself it is clear that the offence alleged of was committed on social networking site but the Investigating Officer during the entire course of investigation has not made any attempt to collect evidence in this respect and in the charge-sheet nothing has been mentioned to that effect. It was further submitted by the learned advocate for the de facto complainant that the investigating officer never attempted to conduct a fair probe into the allegations of the de facto complainant and hence the report submitted may not be accepted. The learned lawyer for the de facto complainant in resonance to the petition, submitted that the investigation has been done in a perfunctory manner with the sole objective of paving the escape route for the accused person during the course of trial. Pinning reliance on these arguments the learned advocate for the de facto complainant submitted that the case is required to be sent for further investigation so that the avowed object of fair investigation is hoisted.

The Ld. Public Prosecutor-in-charge raised objection to such prayer and it was argued that the Investigating Officer has been diligent in ascertaining the felony of the accused person and there is no lapses in the investigation for which the case may be sent for further investigation at the behest of the de facto complainant.

Meticulously introspected the CD. The essence of allegations clearly suggest that the case is based on electronic evidences as the offence alleged of was committed on a social network. On perusal of the CD this Court has no dichotomy to say that the Investigating Officer has not conducted the investigation staying alive to the settled procedure and there are lapses as far as securing electronic evidences are concerned. No attempt was also made to secure the IP address. Though feeling tempted to comment further, but I must refrain myself at this stage or else this Court will be assuming the role of the Investigating Officer and intruding into the process of the probe. Be that as it may; it is axiomatic before this Court that the investigation has not

Presided over by: Subhra Som Ghosal
J.O Code No: WB00984
CNR No: WBSP01-015547-2021
Special Case No: 49 of 2021

been conducted in a way which is conducive to the avowed object of fair investigation in a case of this nature and suited for conducting investigation relating to electronic evidences and offence committed on social networking platform. Hence I find the prayer of the de facto complainant to be rational and hence allowed.

Hence prayer for further investigation is allowed. Deputy Commissioner of Police, South West Division, Kolkata Police is directed to cause further investigation into the facts alleged in this case by any officer not below the rank of Assistant Commissioner of Police and not by the previous investigating officer.

Let a copy of this order be sent to Deputy Commissioner of Police, South West Division, Kolkata Police for his information and further action.

To 17-05-2024 for I.O's report.

Typed to the dictation directly;
corrected on the system.

Sd/-Subhra Som Ghosal
Additional District and Sessions Judge,
01st Court, Alipore, South 24 parganas.

Sd/-Subhra Som Ghosal
Additional District and Sessions Judge,
01st Court, Alipore, South 24 parganas.