

Order No. 14, dated: 24-01-2024

The de facto complainant is present by filing hazira.

As stipulated by the previous order today is fixed for hearing 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. None appears and none moves for the accused person. Considering the purpose for which the case record has been fixed, no coercive step is taken against the accused person.

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 the Investigating Officer in the charge-sheet has mentioned that one of the accused person could not be sent up for trial as the address of the accused person could not be ascertained but the investigation conducted by the Investigating Officer will suggest that no attempt was made to pin point the offender 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 exonerating the accused person. Pinning reliance on these points the Ld. Advocate for the de facto complainant prayed for allowing the prayer of the de facto complainant. 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 persons and there is no lapses in the investigation for which the case may be set 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. On perusal of the CD this Court has no dichotomy to say that the Investigating Officer has conducted the investigation staying alive to the settled procedure and there has 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 been conducted in a way which is conducive to the avowed object of fair investigation and suited for conducting investigation

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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 17-04-2024 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.

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