

**CRR 1798 of 2024**

**Subhashis Roy & Anr.  
Vs.  
The State of West Bengal & Ors.**

Mr. Sabyasachi Banerjee, Sr. Adv.  
Ms. Minal Palana ...for the Petitioners

Mr. Avik Ghatak  
Mr. Tanweer Mondal  
Ms. Arfeen Begum ...for the O.P. no. 2

Mr. Debasish Roy, Ld. PP  
Mr. Kaushik Kundu  
Ms. Nahid Ahmed ...for the State

The petitioners herein are aggrieved with the order dated 22<sup>nd</sup> March, 2024 passed by the learned Judicial Magistrate, 2<sup>nd</sup> Court, Durgapur in connection with G.R. case no. 336 of 2023. By the impugned order, the learned court below rejected the petitioners' prayer for accommodation for that day and had taken the plea under Section 251 of the Code of Criminal Procedure and thereby fixed another date for examination of PW1.

Being aggrieved by the aforesaid order, learned counsel for the petitioners submits that the said criminal proceeding has been initiated on the basis of a complaint made by the IQ City Medical College and Hospital through its Medical Superintendent on 15.2.2023 with the Officer-in-Charge, Durgapur Police Station intimating their office regarding a car accident that happened on 13.2.2023 within the campus of the said Hospital.

Thereafter, the Investigating agency submitted charge-sheet under Section 279/304A of the IPC. In the said unfortunate incident, two out of the three persons, who were 3<sup>rd</sup> year MBBS

students and on board, namely Anagh Manna and Nilabha Roy passed away. The Investigating authority submitted charge-sheet against the offending driver and learned Magistrate took cognizance upon the offence as mentioned above.

The petitioners herein submit that after obtaining the copy of the materials collected during investigation, they felt aggrieved with the investigation and they wanted to file a protest petition against the final report and for which they sought for an accommodation. However, the learned court below arbitrarily rejected their prayer without giving them an opportunity to file the same in the interest of justice.

Learned counsel for the opposite party raised objection contending that this is a dilatory tactics adopted by the petitioners and that they are unnecessarily dragging the proceeding. The Investigating agency has conducted the investigation in right direction and after completion of investigation, they have submitted charge-sheet and the plea has also been taken and the case is now posted for recording the evidence of the complainant. Therefore, there is no scope for making further investigation and as such, the order impugned does not call for interference by this court.

I have considered the submissions made by both the parties. On perusal of the impugned order dated 22<sup>nd</sup> March, 2024, it appears that the petitioners have made a prayer for adjournment in order to file protest petition against the investigation. It further appears from the impugned order that the adjournment petition was not moved on behalf of the petitioners on that day.

Having considered the overall circumstances of the facts and also having considered the submissions made by both the parties, the instant application being CRR 1798 of 2024 is hereby disposed of giving liberty to the petitioners to file protest petition, if any, within a period of three weeks from the date of communication of the order and in the event of filing such application, the court below will dispose of such application within a period of four weeks thereafter, after giving an opportunity to all the parties to contest.

This is made clear that I have not gone into the merits of the case and the court below will dispose of such application, if any, in accordance with law without being influenced by any observations made herein.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

**(Dr. Ajoy Kumar Mukherjee, J.)**