

WWW.LIVELAW.IN
HIGH COURT OF TRIPURA
AGARTALA

W.P. (C) (PIL) No.07/2020

Sri Bhaskar Deb

.....Appellant(s)

Versus

The State of Tripura and another

.....Respondent(s)

For Petitioner(s) : Petitioner-in-person.

For Respondent(s) : Mr. Debalay Bhattacharjee, GA.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI
HON'BLE MR. JUSTICE S.G. CHATTOPADHYAY

ORDER

01/03/2021.

Petitioner has raised an issue of the State Police authorities not following the mandate of Section 173 (2) (ii) of Cr.P.C. in large number of cases. The petitioner has raised an issue in public interest exhibiting no personal interest in the same.

Section 173 of Cr.P.C., pertains to report of police officer on completion of investigation. Sub-Section (1) of Section 173 provides that every investigation under the Chapter XII shall be completed without unnecessary delay. Clause (i) of sub-Section (2) of Section 173 provides that as soon as it is completed, the officer-in-charge of the police station

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shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government stating various details as provided in sub-clauses (a) to (h) of the said clause. Clause (ii) of sub-Section (2) further provides that the officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given.

In plain terms thus as per Section 173 (2) (ii) upon completion of investigation, the officer concerned would communicate the action taken by him to the first informant. The grievance of the petitioner is that this requirement is breached in numerous cases in the State. He has cited several instances where despite completion of investigation the first informant was completely in dark about the developments.

The State Government has filed a detailed affidavit opposing the factual assertions of the petitioner, primarily contending that in all cases, the requirement of Section 173 (2) (ii) are followed. District wise declarations are made in this respect. The petitioner has thereafter filed a rejoinder affidavit dated 22nd February, 2021 once again stating as under:

“3. That, I vehemently oppose **Para-4, 5 & 6** of the Counter Affidavit of the respondents and differ from the same in toto. In the said paras it is contended that all the Police Stations are informing the results of the registered cases, whether they ended

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in Charge-sheet or final report to the complainant/informant, once the investigation gets over, which is out and out false and baseless and to prove the same I have annexed few affidavits of individuals, who on oath have stated that the police did not comply with Section 173(2)(ii) of Cr.P.C.

The Affidavits of individuals, along with related documents are annexed herewith and marked as Annexure-1.

4. That, it is pertinent to mention here that under my instruction my Junior Mr. Saikat Rahman made an RTI Application dated: 28.11.2019 asking for information regarding the prescribed form of submission of investigation report U/S 173(2) Cr.P.C of State Government of Tripura, before the Home Department, Govt. of Tripura. After about a month when he went to the office to gather information regarding the said RTI Application, then he was handed over a Copy of letter whereby, the Under Secretary & SPIO, Govt. of Tripura had requested the SPIO, DGP Office to provide the applicant with the required information but till date the SPIO, Office of the DGP is completely silent regarding the said query.

A copy of the money receipt of RTI Application, receipt copy of the RTI Application and letter handed over to the applicant by the Home Department are annexed herewith and marked as **Annexure-2.**”

Along with this affidavit, the petitioner has annexed affidavits of several complainants, who had filed first information before the concerned police station and who have not been communicated the result of the completion of the investigation. Counsel for the petitioner pointed out that

all these instances pertained to West Tripura District. He, therefore, submitted that even in the urban centers of the State, the requirements of Section 173 (2) (ii) of Cr.P.C. are not followed. The situation in the rural centers would be much worse.

The State has not filed reply to the said rejoinder affidavit of the petitioner, nor controverted the contents of several affidavits annexed to the said rejoinder. We have no basis to discard the instances cited by the petitioner where the requirements of Section 173 (2) (ii) of Cr.P. C. may not have been strictly followed. The said provision is meant to convey to the first informant, the result of the completion of the investigation and in a given case, if he wants to contest the police report. When the first informant, who in large number of cases may be the victim or the heir of the victim is not conveyed the result of the completion of the police investigation, the same would undoubtedly breach the requirements of Section 173 (2) (ii) of Cr.P.C.

The respondents shall therefore ensure that the said requirements of Section 173 (2) (ii) of Cr.P.C. are scrupulously followed in all cases. The Home Department shall issue a proper circular addressed to all police stations requiring the Officer-in-Charge of the police station and the Investigating Officer to comply with the requirements of Section 173 (2) (ii) of Cr.P.C. in all cases.

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Petition disposed of accordingly. Pending application(s), if any, also stands disposed of.

(S.G. CHATTOPADHYAY), J

(AKIL KURESHI), CJ

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