

06.10.2020

Sl. No. 09

Ct. No.05

Srimanta/Mithun

IA No.CRAN/1/2020

in

CRR /1357/2020

(Via Video Conference)

In Re: An application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 in connection with S.T. No. 3(2) of 2020 arising out of Topsia Police Station Case No. 125 of 2017 dated 11.10.2017 under Section 366/323/506(II) of the Indian Penal Code and under Section 25(1B)(a) of the Arms Act now pending before the Learned Additional District & Sessions Judge, 1st Court at Sealdah, South 24-Parganas.

And

In the matter of : Aisha Shaikh

... Petitioner.

Md. Irshad Yaqub, Adv.

... for the petitioner.

Mr. Avik Ghatak, Adv.,
Mr. Amit Ranjan Pati, Adv.,
Mr. Sagnik Mukherjee, Adv.

... for the opposite
party no. 2.

In the instant criminal revision, the petitioner is the de facto complainant of S.T.No.3(2) of 2020 arising out of Tapsia Police Station Case No.125 of 2017 dated 11th October, 2017 under Sections 366/323/506(2) of the Indian Penal Code and under Section 25(1B)(a) of the Arms Act which was pending before the learned Additional Sessions Judge, First Court at Sealdah.

In this revision the petitioner challenged the legality, validity and propriety of order dated 14th September, 2020.

It appears from the certified copy of the impugned order that on 14th September, 2020 the application under Section 319 of the Code of Criminal Procedure was heard in presence of both sides and the learned Trial Judge directed that the order on the said application under Section 319 of the Code of Criminal Procedure would be passed after the examination of the witnesses on behalf of the prosecution. The next date was fixed on 15th September, 2020. The witnesses on behalf of the prosecution did not turn up. Therefore, the learned Trial Judge issued warrant of arrest against the P.W.1 and P.W.3 fixing 21st September, 2020. The learned Trial Judge also directed the learned Public Prosecutor-in-Charge to take fresh step for attendance of P.W. 2 and other witnesses. Subsequently, on 21st September, 2020 the learned Trial Judge acquitted the accused under Section 232 of the Code of Criminal Procedure as the prosecution failed to produce any witness on that date.

Today, the petitioner remains unrepresented. The learned Advocate for the opposite party no. 2 is present.

The instant application is taken up for hearing on merit. It is rightly pointed out by the learned Advocate for the

opposite party no. 2 that when S. T. No. 3(2) of 2020 was disposed of by the learned Additional Sessions Judge, 1st Court at Sealdah on 21st September, 2020, all interlocutory orders passed by the learned Trial Judge merged with the final order of acquittal.

At this stage the petitioner cannot challenge the order dated 14th September, 2020 passed by the learned Trial Judge.

I find substance in the submission made by Mr. Ghatak, learned Advocate for the opposite party no. 2. If the petitioner has any grievance she will have to take step against the order dated 21st September, 2020 by virtue of which the opposite party no. 2 was acquitted in the instant proceeding becomes infructuous in view of recording the order of acquittal against opposite party no. 2.

Under such circumstances, I find that the instant revision is devoid of any merit and accordingly the same is dismissed, however, without cost.

(Bibek Chaudhuri, J.)