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CRR 1667 of 2020

(Via Video Conference)

Debdas Mondal
Vs.
The State of West Bengal & Anr.

Mr.Rajdeep Majumder
Mr. Moyukh Mukherjee
..for the petitioner

Mr. Saswata Gopal Mukherjee, Ld. P.P.
Mr. Arijit Ganguly
...for the State

Mr. Debasish Roy
Mr. A. Ghatak
Mr. Sagnik Mukherjee
...for the defacto complainant

Mr. Majumder, learned advocate appearing for the petitioner is aggrieved in respect of non-compliance of the provision of Section 207 of the Code of Criminal Procedure. According to him, the police report under Section 173(5) of the Code of Criminal Procedure was never supplied to him along with viscera report. Such point was canvassed before the learned ACJM., Bongaon and the learned ACJM by an order dated 18.11.2020 was pleased to observe "After perusal of the entire record and after perusal of the C.D. I find that there is no viseera report and accordingly copy of the same cannot be

supplied. The accused persons were supplied with reconstructed FIR, formal FIR and extract the C.D. showing submission of charge-sheet (reconstructed as charge-sheet).”

Mr. Roy, learned advocate appearing for the opposite party No.2 is present and vehemently opposes the contentions of the learned advocate for the petitioner.

Mr. Arijit Ganguly, learned advocate appears on behalf of the State.

Learned advocates for both sides strenuously drew the attention of this Court to the earlier orders passed in CRR 77 of 2020. The thrust of contention of Mr. Majumder is that without the copy of the original charge sheet being supplied to the petitioner it would seriously prejudice him in course of trial. However, Mr. Majumder submits that he would be satisfied if the viscera report is supplied at the latter stage and if the prosecution proposes to rely upon it during the course of trial.

I have considered the submissions advanced by all the parties and I find this case was initiated in the year 1999 and the charge sheet was submitted in the year 2001 and from the year 2014 it is seen from the records that the case records were misplaced. Pursuant to several directions

passed by this Court the records before the learned Magistrate were reconstructed. In so far as the contention of the learned advocate for the petitioner is concerned that the police authorities in the meantime have incorporated certain persons as witnesses who were not in the original charge sheet and discrepancies in the hand writing of the police authorities would reveal the same, I am of the opinion that same cannot be taken into consideration at this stage when the matter is ready for commitment and are to be agitated at the proper stage of the sessions case. Further if there are any improvement or subsequent improvements it is for the petitioner to canvas before the trial Court and at this stage after 21 years this Court is not in a position to appreciate the authenticity or the merits of the matter and specifically the manner in which incorporation has prejudiced the petitioner or there has been a subsequent improvement by incorporation of certain witnesses.

Having regard to the aforesaid observations and the observations made by the learned ACJM, Bongaon in the order dated 18.11.2020, I am of the considered view that no interference is called for by this Court at this stage. As such, the revisional application is dismissed.

However, the petitioner will be at liberty to canvas all the points which have been raised in this revisional application at the stage of consideration of the charge before the learned sessions Court.

Needless to state that the learned sessions Court would independently consider the issues without being influenced by any observations made by this Court.

With the aforesaid observations CRR 1667 of 2020 is disposed of.

(Tirthankar Ghosh, J.)