

IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

Before :

The Hon'ble Mr. Justice Jay Sengupta.

C.R.R./1711/2020

Krishnendu Sarkar

Vs.

State of West Bengal & Anr..

For the petitioner : Arka Pratim Chowdhury, Adv.
Rimpy Mukherjee, Adv.

For the State : Mr. A. Hossain, Adv.
Ms. R.Ghosh, Adv.

Heard on : 09.12.2020

Judgment on : 09.12.2020

Jay Sengupta, J. :

1. This is an application for quashing of an investigation proceeding under Section 376 AB and Section 511 of the Penal Code and Sections 6 & 18 of the Protection of Children from Sexual Offences Act.

2. Learned Counsel appearing on behalf of the petitioner submits as follows: The instant case is absolutely false and was maliciously instituted against the petitioner. There is no medical evidence to support the version of the minor victim girl. Moreover, the petitioner was not present at the place of occurrence on that particular date. The pending investigational proceeding is absolutely bad in law.
3. I have heard the submissions of the learned Counsel appearing on behalf of the petitioner and have perused the revision petition.
4. Whether the version of an eleven years old victim girl is sufficient for conviction of the petitioner with or without medical evidence is a matter that can be best decided before the learned Trial Court.
5. Even the question of *alibi* cannot be raised in an application for quashing of proceeding. This too has to be decided during trial. On this, reliance is placed in the case of **State of Orissa Vs. Debendra Nath Padhi** reported in **2005 SCC (Cri) 415**.
6. The grounds taken up in the revisional application relate purely to disputed questions of fact that cannot be decided otherwise than in a full-fledged trial and as such, cannot be decided by this Court at this stage.

7. Besides, even according to the petitioner, the investigation into the alleged offences is still continuing.
8. In view of the above, I do not find any worthwhile reason to interfere with the proceeding. There is no merit in the revisional application.
9. Accordingly, this revisional application is dismissed.
10. However, there shall be no order as to costs.
11. Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)